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# OLDER AMERICANS ACT: 25 YEARS OF ACHIEVEMENT

## Findings and Policy Recommendations of the 1990 Workshops

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## A MAJORITY STAFF REPORT

TO THE

## SPECIAL COMMITTEE ON AGING
## UNITED STATES SENATE

JULY 1991

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# PREFACE

Since its enactment in 1965, the Older Americans Act (OAA) (the Act) has been reauthorized on 10 occasions, most recently in 1987. For the last 26 years, the OAA has grown substantially and now authorizes many diverse and important services, including congregate and home-delivered nutrition, employment, legal assistance, the long-term care ombudsman program, homemaker services, transportation, and information and referral systems.

In preparation for the 1991 reauthorization of the OAA, the Special Committee on Aging convened a series of workshops in 1990 to identify policy changes that might be necessary or desirable as part of the reauthorization process. These forums brought together Federal, State, and local government officials, social service providers, volunteer caregivers, academicians, and elderly persons who utilize social services provided under the Act. Workshop participants took a fresh look at the OAA, asked hard questions about its effectiveness, debated tough issues regarding its future, and explored policy options for the reauthorization process. While many significant policy changes were suggested, the central finding of the workshop series was that the OAA has been tremendously successful in serving our Nation's elderly citizens and their caregivers. A record of the workshop proceedings may be obtained from the Committee (Committee Print, Serial #101-I).

The Committee's workshop series focused on a variety of topics within the purview of the OAA including targeting of services to low-income and minority elders, information and referral systems, mandatory and voluntary cost-sharing, legal assistance services, the long-term care ombudsman program, and the role of the Administration on Aging (AoA). As the continuing Federal budget deficit will greatly restrict the availability of significantly greater funding for major new authorized services, these workshops were designed to examine the performance of current OAA programs and how to strenthen them, and, where economically feasible, how to expand them.

The following report presents specific findings from the workshop series and makes policy recommendations for the 1991 reauthorization. It is my hope that this report will prove useful to older Americans, policymakers, and aging advocates as they engage in this year's reauthorization debate.

David Pryor,
*Chairman.*

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# MAJORITY STAFF REPORT: OLDER AMERICANS ACT: 25 YEARS OF ACHIEVEMENT

## INTRODUCTION

The Older Americans Act (OAA) (the Act), enacted in 1965, is the major Federal vehicle for the organization and delivery of supportive, nutrition, and other social services to older individuals. To provide these services, the OAA created and subsequently nurtured the development of the Aging Network—a nationwide system of Federal, State, and local agencies dedicated to providing services to senior citizens.

At the Federal level, the Network consists of the Administration on Aging (AoA) within the Department of Health and Human Services, which administers the majority of the OAA programs and is charged with acting as the chief Federal agency advocate for the elderly. AoA, in turn, oversees a network of State and area agencies on aging. The State and area agencies on aging maintain responsibility for funding, coordinating, and managing the broad array of services, programs, and other initiatives for the elderly authorized by the OAA. Except for priority areas specified in the Act (access services, in-home services, and legal assistance), OAA services are designed and funded in response to the needs of the elderly in individual communities.

Under the the OAA structure, State units on aging (SUAs) receive Federal funds for implementation of State plans on aging which the AoA has approved. Area agencies on aging (AAAs) then develop and fund services based upon State-approved area plans on aging. Primarily through subgrants and contracts with local service providers, AAAs deliver social services to the elderly population within their jurisdictions.

The Aging Network has grown dramatically since 1965, and now includes an aging unit in each State, approximately 670 area agencies on aging, 193 Native American grantees, and more than 25,000 local service providers. The OAA also supports the sole federally sponsored job creation program benefitting low-income older persons (Senior Community Service Employment Program) and has served as the vehicle for the education and training of thousands of professionals in the field of aging.

Budget constraints coupled with past Administrations' opposition to expanding or even maintaining funding for OAA programs in the last three reauthorizations have hampered the Act's ability to serve an ever increasing number of elderly persons. As a result, funding for the OAA slowed dramatically during the 1980's and has remained virtually static for the last few years (for current funding see Appendix B). The fact that services were not subject to severe cuts can be attributed to widespread bipartisan Congressional support, especially for nutrition and senior employment. This broad Congressional support for the Act continued during the 1987 reauthorization and is expected to continue through the 1991 reauthorization.

## FINDINGS AND POLICY RECOMMENDATIONS OF THE 1990 WORKSHOPS

### Findings

A. *INFORMATION AND REFERRAL (I&R)*: The OAA specifically requires area agencies on aging to provide elderly persons and their caregivers with information about existing social and health services available in their communities and to assure that such persons are referred to appropriate provider agencies. Although designated a priority service under Title III of the Act, many workshop participants stated that State and area agencies on aging fail to devote sufficient resources to I&R, one of the most vital functions of the OAA, i.e., linking older Americans to the services they need.

*Finding 1*: Despite the priority status afforded information and referral under Title III of the Act, current statutory language provides no clear definition of what I&R should be. As a result, I&R services, in practice, range anywhere from providing an elderly individual with a telephone number to offering extensive case management and assessment. (General Accounting Office, Summary of Major Findings of Study on OAA I&R Programs, June 10, 1991.) Specific concerns include:

- Current provisions of the Act pertaining to I&R fail to provide area agencies on aging with sufficient direction for developing programs which can assist individuals in finding and obtaining the services they need.
- Current provisions of the Act pertaining to I&R fail to emphasize the importance of determining individual needs when linking older Americans to appropriate services.
- I&R systems currently fail to employ effective mechanisms for tracking individuals who enter their systems in order to ensure that these individuals are linked to the services they need, as well as to facilitate the collection of accurate data pertaining to characteristics of program participants.

### Recommendations

*Recommendation 1*: The definition of I&R should be expanded to emphasize the critical importance of linking older individuals and their caregivers to the services they need.

*Recommendation 2*: The term "information and referral" should be renamed "information and assistance", in order to draw attention to the crucial role that the Aging Network should play in providing "assistance" to elderly persons who need information about available services.

## FINDINGS

B. *LONG-TERM CARE AND THE PEPPER COMMISSION*: According the U.S. Bureau of the Census, by the year 2050, there will be 67.5 million persons over 65 years of age. The rapid aging of our population will only exacerbate the long-term care dilemma and underscores the importance of planning for the future of our nation's elderly.

In 1990, the U.S. Bipartisan Commission on Comprehensive Health Care (Pepper Commission) released its blueprint for developing a nationwide long-term care system. A major component of the Pepper Commission Report's recommendations was the establishment of a service infrastructure which would assess individuals and manage and coordinate their long-term care services.

For the past 25 years, the Aging Network established by the OAA has served as the focal point for providing services to senior citizens. Many interested persons contend that the Aging Network may be well-suited to serve as the infrastructure for a national long-term care system.

*Finding 1*: There is no coordinated system of providing long-term care services to America's elderly. (Testimony before the Special Committee on Aging, Workshop #1, January 31, 1990, OAA Reauthorization.)

*Finding 2*: Coordination and cooperation among public and private service providers would be required in order to reduce unnecessary duplication of services and programs, to increase efficiency and to establish an effective, nationwide long-term care system.

*Finding 3*: Congress has not fully explored what role the already established Aging Network could play in the development of a long-term care system that begins to meet the many needs of the Nation's chronically ill. (Testimony before the Special Committee on Aging, Workshop #1, January 31, 1990, OAA Reauthorization; Testimony before the Senate Labor and Human Resources Subcommittee on Aging, April 26, 1991, Long-Term Care and the Aging Network.)

## RECOMMENDATIONS

*Recommendation 1*: In order to evaluate the appropriate role of the Aging Network in any future national long-term care system, demonstration projects should be authorized to determine whether the Network can serve as the infrastructure for implementing some of the recommendations for long-term care developed by the Pepper Commission. Any such demonstration projects should:

- Evaluate the ability of area agencies to serve as a central point for older Americans to access a long-term care system, providing assessment, referral, and management of services, as well as coordination with other appropriate public and private entities that fund long-term care services;
- Explore area agencies' ability to serve the disabled and under-60 population; and

- Not preclude AAAs from contracting out to other appropriate public and private agencies to develop and implement a comprehensive and coordinated system of long-term care services.

## FINDINGS

C. *SENIOR TRANSPORTATION*: Title III authorizes a number of supportive service programs, including transportation. Transportation, however, has often been overshadowed by the many other important and diverse services provided under the Act. Yet it is OAA transportation which has proved critical to seniors in accessing the wide array of services available to them.

In conjunction with its workshop series, the Special Committee on Aging conducted a field hearing in Little Rock, Arkansas, on August 21, 1990, which featured a panel of witnesses who addressed reauthorization of OAA transportation programs. The panel provided extraordinary testimony attesting to the vital importance of transportation services authorized under Title III of the Act.

*Finding 1*: Transportation is one of the greatest unmet needs of older Americans. (Administration on Aging's 1990 unmet needs study and a 1990 survey by the National Association of Area Agencies on Aging.)

*Finding 2*: Although transportation is recognized as a priority service under the OAA, Congress has failed to emphasize the critical role it plays in linking individuals to the services they need to live with independence and dignity.

*Finding 3*: Transportation is of particular concern in rural America where elderly individuals are frequently shut-ins, are unable to drive, and/or are without alternative means of access to health care or other necessary social services. (Testimony before the Senate Special Committee on Aging, August 15, 1990 field hearing, Long-Term Care in the Nineties: A Spotlight on Rural America; National Association of Area Agencies on Aging, Testimony before the House Select Committee on Aging Subcommittee on Human Services, January 29, 1991, Transportation in the Nineties: Keeping America's Elderly Moving.) Specific concerns include:

- Approximately 50 percent of rural counties in the United States do not have a public transit system.
- Nearly 60 percent of the elderly are unlicensed to drive.

*Finding 4*: For many elderly individuals, transportation is an indispensable lifeline, providing access to hospitals and other health care facilities for needed treatments. (Testimony before the Senate Special Committee on Aging, August 15, 1990 Field Hearing, Long-Term Care in the Nineties: A Spotlight on Rural America) Specific concerns include:

- Lack of adequate transportation, coupled with an increasing rate of hospital closures and relocation of physicians to urban areas, has drastically reduced rural elders' access to health care.
- Elderly persons frequently travel farther to obtain medical care than their urban counterparts.

## RECOMMENDATIONS

*Recommendation 1*: A new subtitle should be established within Title III of the OAA devoted exclusively to senior transportation. A new subtitle could underscore the importance of transportation and serve as a vehicle for funding additional transportation services.

## FINDINGS

D. *LONG-TERM CARE OMBUDSMAN*: The long-term care ombudsman program was developed in the early 1970's for the purpose of investigating and resolving the burgeoning number of complaints made by or on behalf of older residents in nursing homes. In the mid 1970's, the Administration on Aging expanded the program by awarding demonstration grants to several States to support their ombudsman activities. In 1978, the Act was amended to require State aging plans to include a long-term care ombudsman program.

The 1981 reauthorization of the OAA expanded the role of the ombudsman to include complaint resolution on behalf of board and care residents. Comprehensive amendments to the ombudsman program were added in 1987. Among other things, these amendments established a role for sub-state ombudsmen; prohibited conflicts of interest with State agencies; directed States to provide ombudsmen with adequate legal counsel to protect them from liability; and prohibited nursing home operators from interfering with ombudsmen activities or retaliating against ombudsmen.

Although ombudsman programs have experienced great successes in many jurisdictions, virtually all ombudsmen report that they receive insufficient funding to assure an adequate "presence" in long-term care facilities within their jurisdictions. As a result of this inadequate funding, ombudsman programs turn to volunteers who comprise approximately 88 percent of all ombudsman program staff. According to full-time ombudsmen, recruiting and retaining volunteers remain constant challenges.

*Finding 1*: The current capacity of the long-term care ombudsman programs cannot meet the overall level of service that was envisioned by the OAA. (Testimony before the Senate Special Committee on Aging, Workshop #3, July 28, 1990, Barriers to Effective Advocacy: Ombudsman and Legal Services Experiences.) Specific concerns include:

- The current shortage in trained ombudsmen has created a dangerous gap in ombudsman services provided to residents of nursing homes and board and care facilities.
- Sustaining an adequate number of volunteer ombudsmen requires a substantial amount of training and professional support.
- Without regular volunteer ombudsman visits to long-term care facilities, many ombudsman programs would find it very difficult to collect necessary information or engage in effective advocacy.

*Finding 2*: Strong ties between the long-term care ombudsman program and the legal assistance network have not been established. Consequently, shared priorities between the programs have not been identified. (Testimony before the Senate Special Committee on Aging, Workshop #3, June 28, 1990, Barriers to Effective Advocacy: Ombudsman and Legal Services Experiences.) Specific concerns include:

- Residents of nursing homes and board and care facilities do not have access to a broad range of elder services, including legal assistance.
- Ombudsmen sued in the performance of their duties frequently need legal representation and are unable to receive it.
- Ombudsmen do not have access to legal counsel on a daily basis.
- Legal counsel is often unavailable to ombudsmen, thereby hindering their ability to effectively represent the concerns of long-term care residents.

*Finding 3*: In many areas, the long-term care ombudsman program, protection and advocacy systems for the developmentally disabled and mentally ill (P&A), and legal assistance programs do not work cooperatively and collaboratively on behalf of older persons in their communities. Testimony before the Senate Special Committee on Aging, Workshop #3, June 28, 1990, Barriers to Effective Advocacy: Ombudsman and Legal Services Experiences.) Specific concerns include:

- P&A systems are not maximizing their potential for providing needed legal back-up to ombudsmen.
- By failing to collaborate with P&A systems, ombudsmen have not realized their full capacity to serve developmentally disabled and mentally ill older persons.

*Finding 4*: Recently funded elder abuse provisions within Title IIIG fail to fully protect the confidentiality of victims' records. Currently under Section 371(4) of the OAA, State elder abuse programs must ensure that information gathered with respect to a complaint remain confidential unless the release of this information is made to a public protective service agency or related agency. Receiving agencies, however, are not similarly required to keep that information confidential. It is in this respect that the provisions could be strengthened in order to more fully protect the confidentiality of victims' records.

## RECOMMENDATIONS

*Recommendation 1*: A national program for recruiting, training, and retaining volunteer ombudsmen should be established in order to augment the efforts of current State long-term care ombudsman programs.

*Recommendation 2*: Title III should be amended to enable ombudsman programs to coordinate their efforts with legal assistance and protection and advocacy programs.

*Recommendation 3*: Title III-G should be modified to better protect the confidentiality of victims of elder abuse.

## FINDINGS

E. *LEGAL ASSISTANCE SERVICES*: Legal assistance services were authorized under the original OAA legislation in 1965. Current law requires each area agency on aging to spend an "adequate proportion" of Federal Title III dollars on legal assistance. What constitutes an "adequate proportion" is determined by State agencies on aging. If, however, an area agency can demonstrate that adequate legal services are provided in its planning and service area, the State may grant a waiver to that area agency.

*Finding 1*: Despite its priority status under Title III, many AAAs have failed to treat legal assistance as an integral part of Title III services. (Testimony before the Senate Special Committee on Aging, Workshop #3, June 28, 1990, Barriers to Effective Advocacy: Ombudsman and Legal Services Experiences.) Specific concerns include:

- A general lack of understanding as to what constitutes "adequate" legal services has hampered the development of legal assistance programs which include sufficient outreach, targeting and community education components.
- Too often, legal assistance dollars are used to fund private attorneys who fail to reach older Americans in greatest economic or social need. Anecdotal evidence suggests that such providers tend to focus upon nonessential legal problems (e.g., wills).

*Finding 2*: In many cases, adequate legal services programs have not been developed because the area agencies do not fully appreciate the nature of legal assistance delivery or the contributions legal assistance can make in the lives of elderly Americans. (Testimony before the Senate Special Committee on Aging, Workshop #3, June 28, 1990, Barriers to Effective Advocacy: Ombudsman and Legal Services Experiences.)

*Finding 3*: Area agencies have not received the technical assistance necessary to develop legal assistance programs which can effectively identify and resolve legal problems of older individuals.

*Finding 4*: The OAA has never established a vehicle through which older Americans can voice their dissatisfaction with services provided under the Act.

*Finding 5*: Providers currently exercise complete discretion regarding the provision of OAA services.

*Finding 6*: As the number of elderly Americans grows and the population of frail elderly increases, the need for specialized legal expertise in areas of guardianships (defense), living wills, durable powers of attorney, and other areas of life planning, has grown substantially.

## RECOMMENDATIONS

*Recommendation 1*: AoA should, in consultation with various legal assistance resource centers, develop guidelines for area agencies to follow in choosing and evaluating legal services grantees in order to provide area agencies with the necessary technical assistance to develop effective legal services programs.

*Recommendation 2*: Area agencies should establish some informal administrative grievance procedure through which the rights and interests of all elderly OAA beneficiaries can be adequately safeguarded.

*Recommendation 3*: The OAA should be amended to authorize demonstration project grants for the establishment of programs which will provide older persons with counseling in areas of life planning.

### FINDINGS

F. *THE LEGAL SERVICES DEVELOPER POSITION*: Under Section 307(a)(150(c)) of the OAA, the State legal services developer position was established to develop a comprehensive, statewide legal services network, to coordinate legal assistance programs throughout a State, and to provide technical assistance to AAAs and legal services providers.

*Finding 1*: Data collected by the Special Committee on Aging revealed that there are virtually no legal services developers currently employed who have the knowledge, experience, and time sufficient for developing and expanding the capacity of States to maintain effective legal services networks. (OAA, Title III Legal Assistance Survey, Special Committee on Aging, presented at Workshop #3, June 28, 1990, Barriers to Effective Advocacy: Ombudsman and Legal Services Experiences.) Specific concerns include:

- Only 65 percent of legal services developers are employed on a full time basis.
- Only 38 percent of legal services developers hold a law degree.
- 34 States reported that the legal services developers works on issues other than those related to legal assistance.

### RECOMMENDATIONS

*Recommendation 1*: AoA should develop a model job description for the legal services developer position in order to clearly establish the appropriate role of the legal services developer.

### FINDINGS

G. *ELEVATION OF THE COMMISSIONER ON AGING*: The proper administrative placement of the Administration on Aging and the Commissioner on Aging has been a recurring issue in past reauthorizations. Since 1984, the Commissioner has reported directly to the Office of the Secretary of the Department of Health and Human Services. In 1987, the AoA was elevated to the same level of authority as assistant secretaries and other commissioners within the Department. Congress further amended the law to require that the Commissioner report directly to the Secretary rather than to the Office of the Secretary. Despite direct access to the Secretary, the Commissioner still does not exercise control over AoA's budget. This, in turn, has prevented Federal aging programs from receiving adequate administrative resources.

*Finding 1*: With scarce resources and little control over its budget, AoA has been unable to hire persons with expertise in areas of particular concern to older Americans. (Testimony before the Senate Special Committee on Aging, Workshop #4, October 18, 1991, Administration on Aging: Meeting the Challenge of A Graying America.) Specific concerns include:

- Lack of control over its salary and expense budget makes it difficult for AoA to release travel funds so that regional program directors can visit State agencies to evaluate, monitor, and provide technical assistance.
- Lack of control over its expense budget hinders AoA's ability to provide technical assistance to State agencies, area agencies, and service providers.

### RECOMMENDATIONS

*Recommendation 1*: The status of the Commissioner on Aging should be elevated to Assistant Secretary in order to enhance AoA's ability to ensure that Federal aging programs can be an effective voice for older Americans.

### FINDINGS

H. *DATA COLLECTION*: Advocates and persons working in the Aging Network report that little useful data are collected regarding OAA services and that agencies do not effectively share information among themselves. For example, no national data exist regarding funding levels for services authorized under the Act. In addition, AoA has failed to disseminate throughout the Aging Network information about innovative programs and best practices. Information sharing touches upon all levels of the Aging Network and is vital to the success of particular programs. Moreover it is essential for policymakers who are shaping the future direction of the Act.

*Finding 1*: There are no current and accurate data available pertaining to the characteristics of program participants.

*Finding 2*: There are no data available which effectively measure compliance with the various mandates of the OAA.

*Finding 3*: Analysis of data collected by AoA has not been disseminated to State and local agencies so that this information can be utilized for improving and enhancing services and programs under the Act.

*Finding 4*: Burdensome reporting requirements which often duplicate those of other Federal and State funded programs interfere with the service providers' ability to provide direct services. (Testimony before the Senate Special Committee on Aging, Workshop #4, October 18, 1990, Administration on Aging: Meeting the Challenge of a Graying America; General Accounting Office Testimony before the House Select Committee on Aging Subcommittee on Human Services, June 4, 1991, The U.S. Administration on Aging: The Mission and The Reality.)

## RECOMMENDATIONS

*Recommendation 1*: AoA should establish a panel that will examine all current reporting requirements under the Act and make legislative and regulatory recommendations which achieve at least the following objectives: (1) collection of national data regarding monetary expenditures for Title III services; (2) collection of data that effectively measure compliance with AoA's regulations and OAA mandates; (3) minimization of duplication with reporting requirements of other Federal, State and private programs; and (4) collection of accurate information concerning characteristics of program participants.

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# OLDER AMERICANS ACT OF 1965

## (Public Law 89-73)

AN ACT To provide assistance in the development of new or improved programs to help older persons through grants to the States for community planning and services and for training, through research, development, or training project grants, and to establish within the Department of Health, Education, and Welfare an operating agency to be designated as the "Administration on Aging".

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Older Americans Act of 1965".

(42 U.S.C. 3001 note) Enacted July 14, 1965, P.L. 89-73, sec. 1, 79 Stat. 219.

## TITLE I—DECLARATION OF OBJECTIVES; DEFINITIONS

### DECLARATION OF OBJECTIVES FOR OLDER AMERICANS

SEC. 101. The Congress hereby finds and declares that, in keeping with the traditional American concept of the inherent dignity of the individual in our democratic society, the older people of our Nation are entitled to, and it is the joint and several duty and responsibility of the governments of the United States, of the several States and their political subdivisions, and of Indian tribes to assist our older people to secure equal opportunity to the full and free enjoyment of the following objectives:

(1) An adequate income in retirement in accordance with the American standard of living.

(2) The best possible physical and mental health which science can make available and without regard to economic status.

(3) Obtaining and maintaining suitable housing, independently selected, designed and located with reference to special needs and available at costs which older citizens can afford.

(4) Full restorative services for those who require institutional care, and a comprehensive array of community-based, long-term care services adequate to appropriately sustain older people in their communities and in their homes.

(5) Opportunity for employment with no discriminatory personnel practices because of age.

(6) Retirement in health, honor, dignity—after years of contribution to the economy.

(7) Participating in and contributing to meaningful activity within the widest range of civic, cultural, educational and training and recreational opportunities.

(8) Efficient community services, including access to low-cost transportation, which provide a choice in supported living arrangements and social assistance in a coordinated manner and

which are readily available when needed, with emphasis on maintaining a continuum of care for the vulnerable elderly.

(9) Immediate benefit from proven research knowledge which can sustain and improve health and happiness.

(10) Freedom, independence, and the free exercise of individual initiative in planning and managing their own lives, full participation in the planning and operation of community-based services and programs provided for their benefit, and protection against abuse, neglect, and exploitation.

(42 U.S.C. 3001) Enacted July 14, 1965, P.L. 89-73, sec. 102, 79 Stat. 219; amended May 3, 1973, P.L. 93-29, sec. 102, 87 Stat. 30; amended October 18, 1978, P.L. 95-478, sec. 101, 92 Stat. 1513; amended December 29, 1981, P.L. 97-115, sec. 2(a)(1), 95 Stat. 1595; amended October 9, 1984, P.L. 98-459, sec. 102, 98 Stat. 1767; amended November 29, 1987, P.L. 100-175, sec. 101, 101 Stat. 928.

### DEFINITIONS

SEC. 102. For the purposes of this Act—

(1) The term "Secretary" means the Secretary of Health and Human Services, expect that for purposes of title V such term means the Secretary of Labor.

(2) The term "Commissioner" means, unless the context otherwise requires, the Commissioner of the Administration on Aging.

(3) The term "State" means any of the several States, the District of Columbia, the Virgin Islands, the Commonwealth of Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(4) The term "nonprofit" as applied to any agency, institution, or organization means an agency, institution, or organization which is, or is owned and operated by, one or more corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(5) The term "Indian" means a person who is a member of an Indian tribe.

(6) Except for the purposes of title VI of this Act, the term "Indian tribe" means any tribe, band, nation, or other organized group or community of Indians (including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (Public Law 92-203; 85 Stat. 688) which (A) is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians; or (B) is located on, or in proximity to, a Federal or State reservation or rancheria.

(7) Except for the purposes of title VI of this Act, the term "tribal organization" means the recognized governing body of any Indian tribe, or any legally established organization of Indians which is controlled, sanctioned, or chartered by such governing body. In any case in which a contract is let or grant made to an organization to perform services benefiting more than one Indian tribe, the approval of each such Indian tribe

shall be a prerequisite to the letting or making of such contract or grant.

(8) The term "disability" means (except when such term is used in the phrase "severe disability", "developmental disabilities", "physical or mental disability", "physical and mental disabilities", or "physical disabilities") a disability attributable to mental or physical impairment, or a combination of mental and physical impairments, that results in substantial functional limitations in 1 or more of the following areas of major life activity: (A) self-care, (B) receptive and expressive language, (C) learning, (D) mobility, (E) self-direction, (F) capacity for independent living, (G) economic self-sufficiency, (H) cognitive functioning, and (I) emotional adjustment.

(9) The term "severe disability" means a severe, chronic disability attributable to mental or physical impairment, or a combination of mental and physical impairments, that—

(A) is likely to continue indefinitely; and

(B) results in substantial functional limitation in 3 or more of the major life activities specified in subparagraphs (A) through (G) of paragraph (8).

(10) The term "assistive technology" means technology, engineering methodologies, or scientific principles appropriate to meet the needs of, and address the barriers confronted by, older individuals with functional limitations.

(11) The term "information and referral" includes information relating to assistive technology.

(12) The term "Trust Territory of the Pacific Islands" includes the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau.

(42 U.S.C. 3002) Enacted July 14, 1965, P.L. 89-73, sec. 102, 79 Stat. 219; amended July 1, 1967, P.L. 90-42, sec. 5(a), 81 Stat. 107; amended September 17, 1969, P.L. 91-69, sec. 10(a), 83 Stat. 114; amended November 28, 1975, P.L. 94-135, secs. 104(b), 114(a), 89 Stat. 714, 725; amended October 18, 1978, P.L. 95-478, sec. 503(a), 92 Stat. 1559; amended December 29, 1981, P.L. 97-115, sec. 2(a), 95 Stat. 1595; amended November 29, 1987, P.L. 100-175, secs. 136(a)(1), 146(a), and 182(b)(1)(B), 101 Stat. 942, 950, 964; amended November 7, 1988, P.L. 100-628, sec. 705, 102 Stat. 3247.

## TITLE II—ADMINISTRATION ON AGING

### ESTABLISHMENT OF ADMINISTRATION ON AGING

SEC. 201. (a) There is established in the Office of the Secretary an Administration on Aging (hereinafter in this Act referred to as the "Administration") which shall be headed by a Commissioner on Aging (hereinafter in this Act referred to as the "Commissioner"). Except for title V, the Administration shall be the agency for carrying out this Act. There shall be a direct reporting relationship between the Commissioner and the Secretary. In the performance of the functions of the Commissioner, the Commissioner shall be directly responsible to the Secretary. The Secretary shall not approve or require any delegation of the functions of the Commissioner to any other officer not directly responsible to the Commissioner.

(b) The Commissioner shall be appointed by the President by and with the advice and consent of the Senate.

(c)(1) There is established in the Administration on Aging an Office for American Indian, Alaskan Native, and Native Hawaiian Programs.

(2) The Office shall be headed by an Associate Commissioner on American Indian, Alaskan Native, and Native Hawaiian Aging appointed by the Commissioner.

(3) The Associate Commissioner on American Indian, Alaskan Native, and Native Hawaiian Aging shall—

(A)(i) evaluate the adequacy of outreach under title III and title VI for older Native Americans and recommend to the Commissioner necessary action to improve service delivery, outreach, coordination between title III and title VI services, and particular problems faced by older Indians and Native Hawaiians; and

(ii) include a description of the results of such evaluation and recommendations in the annual report required by section 207(a) to be submitted by the Commissioner;

(B) serve as the effective and visible advocate in behalf of older Native Americans within the Department of Health and Human Services and with other departments and agencies of the Federal Government regarding all Federal policies affecting older Native Americans;

(C) coordinate activities between other Federal departments and agencies to assure a continuum of improved services through memoranda of agreements or through other appropriate means of coordination;

(D) administer and evaluate the grants provided under this Act of Indian tribes, public agencies and nonprofit private organziations serving Native Hawaiians;

(E) recommend to the Commissioner policies and priorities with respect to the development and operation of programs and activities conducted under the Act relating to older Native Americans;

(F) collect and disseminate information related to problems experienced by older Native Americans;

(G) develop research plans, and conduct and arrange for research, in the field of American Native aging with a special emphasis on the gathering of statistics on the status of older Native Americans; and

(H) develop and provide technical assistance and training programs to grantees under title VI.

(42 U.S.C. 3011) Enacted July 14, 1965, P.L. 89-73, sec. 201, 79 Stat. 220; amended May 3, 1973, P.L. 93-29, sec. 201(a), 87 Stat. 30; amended July 12, 1974, P.L. 93-351, sec. 2(a), 88 Stat. 357; amended October 18, 1978, P.L. 95-478, sec. 503(b), 92 Stat. 1559; amended October 9, 1984, P.L. 98-459, sec. 201, 98 Stat. 1767; amended November 29, 1987, P.L. 100-175, secs. 102, 107(a), and 182(c), 101 Stat. 928, 931, 964.

### FUNCTIONS OF COMMISSIONER

SEC. 202. (a) It shall be the duty and function of the Administration to—

(1) serve as the effective and visible advocate for the elderly within the Department of Health and Human Services and with other departments, agencies, and instrumentalities of the Federal Government by maintaining active review and com-

menting responsibilities over all Federal policies affecting the elderly;

(2) collect and disseminate information related to problems of the aged and aging;

(3) assist the Secretary in all matters pertaining to problems of the aged and aging;

(4) administer the grants provided by this Act;

(5) develop plans, conduct and arrange for research in the field of aging, and assist in the establishment and implementation of programs designed to meet the needs of older individuals for supportive services, including nutrition, hospitalization, education and training services (including preretirement training, and continuing education), low-cost transportation and housing, and health (including mental health) services;

(6) provide technical assistance and consultation to States and political subdivisions thereof with respect to programs for the aged and aging;

(7) prepare, publish, and disseminate educational materials dealing with the welfare of older individuals;

(8) gather statistics in the field of aging which other Federal agencies are not collecting, and take whatever action is necessary to achieve coordination of activities carried out or assisted by all departments, agencies, and instrumentalities of the Federal Government with respect to the collection, preparation, and dissemination of information relevant to older individuals;

(9) stimulate more effective use of existing resources and available services for the aged and aging, including existing legislative protections with particular emphasis on the application of the Age Discrimination in Employment Act of 1967;

(10) develop basic policies and set priorities with respect to the development and operation of programs and activities conducted under authority of this Act;

(11) provide for the coordination of Federal programs and activities related to such purposes;

(12) coordinate, and assist in, the planning and development by public (including Federal, State, and local agencies) and private organizations or programs for older individuals with a view to the establishment of a nationwide network of comprehensive, coordinated services and opportunities for such individuals;

(13) convene conferences of such authorities and officials of public (including Federal, State, and local agencies) and nonprofit private organizations concerned with the development and operation of programs for older individuals as the Commissioner deems necessary or proper for the development and implementation of policies related to the purposes of this Act;

(14) develop and operate programs providing services and opportunities as authorized by this Act which are not otherwise provided by existing programs for older individuals;

(15) carry on a continuing evaluation of the programs and activities related to the purposes of this Act, with particular attention to the impact of medicare and medicaid, the Age Discrimination in Employment Act of 1967, and the programs of

the National Housing Act relating to housing for the elderly and the setting of standards for the licensing of nursing homes, intermediate care homes, and other facilities providing care for older people;

(16) provide information and assistance to private organizations for the establishment and operation by them of programs and activities related to the purposes of this Act;

(17) develop, in coordination with other agencies, a national plan for meeting the needs for trained personnel in the field of aging, and for training persons for carrying out programs related to the purposes of this Act, and conduct and provide for the conducting of such training;

(18) consult with national organizations representing minority individuals to develop and disseminate training packages and to provide technical assistance efforts designed to assist State and area agencies in providing services to older individuals with the greatest economic or social needs;

(19) collect for each fiscal year, for fiscal years beginning after September 30, 1988, directly or by contract, statistical data regarding programs and activities carried out with funds provided under this Act, including—

(A) with respect to each type of service provided with such funds—

(i) the aggregate amount of such funds expended to provide such service;

(ii) the number of individuals who received such service; and

(iii) the number of units of such service provided;

(B) the number of senior centers which received such funds; and

(C) the extent to which each area agency on aging designated under section 305(a) satisfied the requirements of paragraphs (2) and (5)(A) of section 306(a); and

(20) obtain from—

(A) the Department of Agriculture information explaining the requirements for eligibility to receive benefits under the Food Stamp Act of 1977; and

(B) the Social Security Administration information explaining the requirements for eligibility to receive supplemental security income benefits under title XVI of the Social Security Act (or assistance under a State plan program under title XVI of that Act);

and distribute such information, in written form, to State agencies, for redistribution to area agencies on aging, to carry out outreach activities and application assistance under section 307(a)(31).

(b) In order to strengthen the involvement of the Administration in the development of policy alternatives in long-term care and to insure that the development of community alternatives is given priority attention, the Commissioner shall—

(1) develop planning linkages with health systems agencies designated under section 1515 of the Public Health Service Act (42 U.S.C. 3001-4), with utilization and quality control peer

review organizations under title XI of the Social Security Act, with the Alcohol, Drug Abuse, and Mental Health Administration and the Administration on Developmental Disabilities;

(2) participate in all departmental and interdepartmental activities which concern issues of institutional and noninstitutional long-term health care services development; and

(3) review and comment on all departmental regulations and policies regarding community health and social service development for the elderly.

(c) In executing the duties and functions of the Administration under this Act and carrying out the programs and activities provided for by this Act, the Commissioner, in consultation with the Director of the ACTION Agency, shall take all possible steps to encourage and permit voluntary groups active in supportive services, including youth organizations active at the high school or college levels, to participate and be involved individually or through representative groups in such programs or activities to the maximum extent feasible, through the performance of advisory or consultative functions, and in other appropriate ways.

(42 U.S.C. 3012) Enacted July 14, 1965, P.L. 89-73, sec. 202, 79 Stat. 220; amended May 3, 1973, P.L. 93-29, sec. 201(b), 87 Stat. 31; amended November 28, 1975, P.L. 94-135, sec. 114(c), 89 Stat. 725; amended October 18, 1978, P.L. 95-478, secs. 102(a), 503(b), 92 Stat. 1513, 1559; amended December 29, 1981, P.L. 97-115, secs. 2(b), 2(c), 3(d), 95 Stat. 1595, 1597; amended October 9, 1984, P.L. 98-459, sec. 202, 98 Stat. 1768; amended November 29, 1987, P.L. 100-175, secs. 103(a), 105(a), 106(a), and 155(a), 101 Stat. 928, 930, 952.

### FEDERAL AGENCY CONSULTATION

SEC. 203. (a) The Commissioner, in carrying out the purposes and provisions of this Act, shall advise, consult, and cooperate with the head of each Federal agency or department proposing or administering programs or services substantially related to the purposes of this Act, with respect to such programs or services. The head of each Federal agency or department proposing to establish programs and services substantially related to the purposes of this Act shall consult with the Commissioner prior to the establishment of such programs and services. The head of each Federal agency administering any program substantially related to the purposes of this Act, particularly administering any program set forth in subsection (b), shall, to achieve appropriate coordination, consult and cooperate with the Commissioner in carrying out such program.

(b) For the purposes of subsection (a), programs related to the purposes of this Act shall include—

(1) the Job Training Partnership Act,

(2) title II of the Domestic Volunteer Service Act of 1973,

(3) titles XVI, XVIII, XIX, and XX of the Social Security Act,

(4) sections 231 and 232 of the National Housing Act,

(5) the United States Housing Act of 1937,

(6) section 202 of the Housing Act of 1959,

(7) title I of the Housing and Community Development Act of 1974,

(8) title I of the Higher Education Act of 1965 and the Adult Education Act,

(9) sections 3, 9, and 16 of the Urban Mass Transportation Act of 1964,

(10) the Public Health Service Act, including block grants under title XIX of such Act,

(11) the Low-Income Home Energy Assistance Act of 1981,

(12) part A of the Energy Conservation in Existing Buildings Act of 1976, relating to weatherization assistance for low income persons,

(13) the Community Services Block Grant Act,

(14) demographic statistics and analysis programs conducted by the Bureau of the Census under title 13, United States Code,

(15) parts II and III of title 38, United States Code,

(16) the Rehabilitation Act of 1973, and

(17) the Developmental Disabilities and Bill of Rights Act.

(42 U.S.C. 3013) As added May 3, 1973, P.L. 93-29, sec. 201(c), 87 Stat. 32; amended October 18, 1978, P.L. 95-478, sec. 102(b), 92 Stat. 1513; amended December 29, 1981, P.L. 97-115, sec. 2(d), 95 Stat. 1595-1596; amended October 9, 1984, P.L. 98-459, sec. 203, 98 Stat. 1768; amended November 29, 1987, P.L. 100-175, secs. 104(a), 105(a), and 106(b), 101 Stat. 929, 930.

### FEDERAL COUNCIL ON THE AGING

SEC. 204. (a)(1) There is established a Federal Council on the Aging to be composed of 15 members. Members shall serve for terms of three years without regard to the provisions of title 5, United States Code. Members shall be appointed by each appointing authority so as to be representative of rural and urban older individuals, national organizations with an interest in aging, business, labor, minorities, Indian tribes, and the general public. At least three of the members appointed by each appointing authority shall be older individuals. No full-time officer or employee of the Federal Government may be appointed as a member of the Council.

(2) Members appointed to the Federal Council on the Aging established by this section prior to the date of enactment of the Older Americans Act Amendments of 1984 who are serving on such date, shall continue to serve on the Federal Council established by paragraph (1) of this subsection until members are appointed in accordance with subsection (b)(1).

(b)(1)(A) The members appointed in 1985 shall be referred to as class 1 members; the members appointed in 1986 shall be referred to as class 2 members; and the members appointed in 1987 shall be referred to as class 3 members.

(B)(i) Members of each class shall be appointed in the manner prescribed by this subparagraph.

(ii) Of the members of class 1, two shall be appointed by the President, two by the President pro tempore of the Senate upon the recommendation of the Majority Leader and the Minority Leader, and one by the Speaker of the House of Representatives upon the recommendation of the Majority Leader and the Minority Leader.

(iii) Of the members of class 2, two shall be appointed by the President, one by the President pro tempore of the Senate upon the recommendation of the Majority Leader and the Minority Leader, and two by the Speaker of the House of Representatives upon the recommendation of the Majority Leader and the Minority Leader.

(iv) Of the members of class 3, one shall be appointed by the President, two by the President pro tempore of the Senate upon the recommendation of the Majority Leader and the Minority Leader, and two by the Speaker of the House of Representatives upon the recommendation of the Majority Leader and the Minority Leader.

(2) Any member appointed to fill a vacancy occurring prior to the expiration of the term for which such member's predecessor was appointed shall be appointed only for the remainder of such term. Members shall be eligible for reappointment and may serve after the expiration of their terms until their successors have taken office.

(3) Any vacancy in the Council shall not affect its powers, but shall be filled in the same manner by which the original appointment was made.

(4) Members of the Council shall, while serving on business of the Council, be entitled to receive compensation at a rate not to exceed the daily rate specified for grade GS-18 in section 5332 of title 5, United States Code, including traveltime, and while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as the expenses authorized by section 5703(b) of title 5, United States Code, for persons in the Government service employed intermittently.

(c) The President shall designate the Chairperson from among the members appointed to the Council. The Council shall meet at the call of the Chairperson at least quarterly.

(d) The Council shall—

(1) advise and assist the President on matters relating to the special needs of older Americans;

(2) review and evaluate, on a continuing basis, Federal policies regarding the aging and programs and other activities affecting the aging conducted or assisted by all Federal departments and agencies for the purpose of appraising their value and their impact on the lives of older Americans;

(3) serve as a spokesman on behalf of older Americans by making recommendations to the President, to the Secretary, to the Commissioner, and to the Congress with respect to Federal policies regarding the aging and federally conducted or assisted programs and other activities relating to or affecting them;

(4) inform the public about the problems and needs of the aging by collecting and disseminating information, conducting or commissioning studies and publishing the results thereof, and by issuing publications and reports; and

(5) provide public forums for discussing and publicizing the problems and needs of the aging and obtaining information relating thereto by conducting public hearings, and by conducting or sponsoring conferences, workshops, and other such meetings.

(e) The Council shall have staff personnel, appointed by the Chairperson, to assist it in carrying out its activities. The head of each Federal department and agency shall make available to the Council such information and other assistance as it may require to carry out its activities.

(f) Beginning with the year 1974 the Council shall make such interim reports as it deems advisable and an annual report of its findings and recommendations to the President not later than March 31 of each year. The President shall transmit each such report to the Congress together with his comments and recommendations.

(g) There are authorized to be appropriated to carry out the provisions of this section $210,000 for the fiscal year 1988, and $221,000 for the fiscal year 1989, $232,000 for the fiscal year 1990, and $243,000 for the fiscal year 1991.

(42 U.S.C. 3015) As added May 3, 1973, P.L. 93-29, sec. 201(c), 87 Stat. 33; amended November 28, 1975, P.L. 94-135, sec. 101, 89 Stat. 713; amended October 18, 1978, P.L. 95-478, secs. 102(e), 503(b), 92 Stat. 1514-1515, 1559; redesignated and amended December 29, 1981, P.L. 97-115, secs. 2(e), 2(f), 11(b)(1), 95 Stat. 1596, 1606; amended October 9, 1984, P.L. 98-459, sec. 204, 98 Stat. 1769; amended November 29, 1987, P.L. 100-175, secs. 107(b), 108, and 182(d), 101 Stat. 931, 932, 964; amended November 7, 1988, P.L. 100-628, sec. 705, 102 Stat. 3247.

### ADMINISTRATION OF THE ACT

SEC. 205. (a) In carrying out the purposes of this Act, the Commissioner is authorized to:

(1) provide consultative services and technical assistance to public or nonprofit private agencies and organizations;

(2) provide short-term training and technical instruction;

(3) conduct research and demonstrations;

(4) collect, prepare, publish, and disseminate special educational or informational materials, including reports of the projects for which funds are provided under this Act; and

(5) provide staff and other technical assistance to the Federal Council on the Aging.

(b) In administering the functions of the Administration under this Act, the Commissioner may utilize the services and facilities of any agency of the Federal Government and of any other public or nonprofit agency or organization, in accordance with agreements between the Commissioner and the head thereof, and is authorized to pay therefor, in advance or by way of reimbursement, as may be provided in the agreement.

(c) Not later than 120 days after the date of the enactment of the Older Americans Act Amendments of 1987, the Secretary shall issue and publish in the Federal Register proposed regulations for the administration of this Act. After allowing a reasonable period for public comment on such proposed rules and not later than 90 days after such publication, the Secretary shall issue, in final form, regulations for the administration of this Act.

(d) Not later than September 1 of each fiscal year, the Commissioner shall make available to the public, for the purpose of facilitating informed public comment, a statement of proposed specific goals to be achieved by implementing this Act in the first fiscal year beginning after the date on which such statement is made available.

(e) For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary.

(42 U.S.C. 3016) As added May 3, 1973, P.L. 93-29, sec. 201(c), 87 Stat. 34; amended October 18, 1978, P.L. 95-478, sec. 102(f), 92 Stat. 1515; redesignated and amended December 29, 1981, P.L. 97-115, secs. 2(e), 2(g), 95 Stat. 1596; amended October 9, 1984, P.L. 98-459, sec. 205, 98 Stat. 1770; amended November 29, 1987, P.L. 100-175, secs. 109 and 110, 100 Stat. 932.

### EVALUATION

SEC. 206. (a) The Secretary shall measure and evaluate the impact of all programs authorized by this Act, their effectiveness in achieving stated goals in general, and in relation to their cost, their impact on related programs, and their structure and mechanisms for delivery of services, including, where appropriate, comparisons with appropriate control groups composed of persons who have not participated in such programs. Evaluations shall be conducted by persons not immediately involved in the administration of the program or project evaluated.

(b) The Secretary may not make grants or contracts under title IV of this Act until the Secretary develops and publishes general standards to be used by the Secretary in evaluating the programs and projects assisted under such title. Results of evaluations conducted pursuant to such standards shall be included in the reports required by section 207.

(c) In carrying out evaluations under this section, the Secretary shall, whenever possible, arrange to obtain the opinions of program and project participants about the strengths and weaknesses of the programs and projects, and conduct, where appropriate, evaluations which compare the effectiveness of related programs in achieving common objectives. In carrying out such evaluations, the Secretary shall consult with organizations concerned with older individuals, including those representing minority individuals and older individuals with disabilities.

(d) The Secretary shall annually publish summaries and analyses of the results of evaluative research and evaluation of program and project impact and effectiveness, including, as appropriate, health and nutrition education demonstration projects conducted under section 307(f) the full contents of which shall be transmitted to Congress, be disseminated to Federal, State, and local agencies and private organizations with an interest in aging, and be accessible to the public.

(e) The Secretary shall take the necessary action to assure that all studies, evaluations, proposals, and data produced or developed with Federal funds shall become the property of the United States.

(f) Such information as the Secretary may deem necessary for purposes of the evaluations conducted under this section shall be made available to him, upon request, by the departments and agencies of the executive branch.

(g) The Secretary is authorized to use such sums as may be required but not to exceed one-tenth of 1 percent of the funds appropriated under this Act for each fiscal year or $300,000 whichever is lower, to conduct program and project evaluations (directly, or by grants or contracts) as required by this title. In the case of allotments from such an appropriation, the amount available for such allotments (and the amount deemed appropriated therefor) shall be reduced accordingly.

(42 U.S.C. 3017) As added May 3, 1973, P.L. 93-29, sec. 201(c), 87 Stat. 35; amended October 18, 1978, P.L. 95-478, sec. 102(g), 92 Stat. 1515; redesignated and amended December 29, 1981, P.L. 97-115, secs. 2(e), 2(h), 95 Stat. 1596; amended October 9, 1984, P.L. 98-458, sec. 206, 98 Stat. 1770; amended November 29, 1987, P.L. 100-175, sec. 106(c), 101 Stat. 930.

### REPORTS

SEC. 207. (a) Not later than one hundred and twenty days after the close of each fiscal year, the Commissioner shall prepare and submit to the President and to the Congress a full and complete report on the activities carried out under this Act. Such annual reports shall include—

(1) statistical data reflecting services and activities provided to individuals during the preceding fiscal year;

(2) statistical data collected under section 202(a)(19);

(3) an analysis of the information received under section 306(b)(2)(D) by the Commissioner; and

(4) statistical data and an analysis of information regarding the effectiveness of the State agency and area agencies on aging in targeting services to older individuals with the greatest economic or social needs, with particular attention to low-income minority individuals, low-income individuals, and frail individuals (including individuals with any physical or mental functional impairment).

(b)(1) Not later than January 15 of each year, the Commissioner shall compile a report—

(A) summarizing and analyzing the data collected under section 307(a)(12)(C) for the then most recently concluded fiscal year;

(B) identifying significant problems and issues revealed by such data (with special emphasis on problems relating to quality of care and residents' rights);

(C) discussing current issues concerning the long-term care ombudsman programs of the States; and

(D) making recommendations regarding legislation and administrative actions to resolve such problems.

(2) The Commissioner shall submit the report required by paragraph (1) to—

(A) the Select Committee on Aging of the House of Representatives;

(B) the Special Committee on Aging of the Senate;

(C) the Committee on Education and Labor of the House of Representatives; and

(D) the Committee on Labor and Human Resources of the Senate.

(3) The Commissioner shall provide the report required by paragraph (1), and make the State reports required by section 307(a)(12)(H)(i) available, to—

(A) the Administrator of the Health Care Finance Administration;

(B) the Office of the Inspector General of the Department of Health and Human Services.

(C) the Office of Civil Rights of the Department of Health and Human Services;

(D) the Administrator of the Veterans' Administration; and

(E) the public agencies and private organizations designated under section 307(a)(12)(A).

(c) The Commissioner shall, as part of the annual report submitted under subsection (a), prepare and submit a report on the evaluations required to be submitted under section 307(a)(31)(D), together with such recommendations as the Commissioner deems appropriate. In carrying out this subsection, the Commissioner shall consider—

(1) the number of older individuals reached through outreach activities supported under section 306(a)(6)(P);

(2) the dollar amount of the assistance and benefits received by older individuals as a result of such activities;

(3) the cost of such activities in terms of the number of individuals reached and the dollar amount described in paragraph (2); and

(4) the effect of such activities on supportive services and nutrition services furnished under title III of this Act.

(42 U.S.C. 3018) As added May 3, 1973, P.L. 93-29, sec. 201(c), 87 Stat. 35; redesignated December 29, 1981, P.L. 97-115, sec. 2(e), 95 Stat. 1596; amended October 9, 1984, P.L. 98-459, sec. 207, 98 Stat. 1770; amended November 29, 1987, P.L. 100-175, secs. 103 and 155(f), 101 Stat. 928, 954.

### JOINT FUNDING OF PROJECTS

Sec. 208. Pursuant to regulations prescribed by the President and to the extent consistent with the other provisions of this Act, where funds are provided for a single project by more than one Federal agency to any agency or organization assisted under this Act, the Federal agency principally involved may be designated to act for all in administering the funds provided. In such cases, a single non-Federal share requirement may be established according to the proportion of funds advanced by each Federal agency, and any such agency may waive any technical grant or contract requirement (as defined by such regulations) which is inconsistent with the similar requirements of the administering agency or which the administering agency does not impose.

(42 U.S.C. 3019) As added May 3, 1973, P.L. 93-29, sec. 201(c), 87 Stat. 35; redesignated December 29, 1981, P.L. 97-115, sec. 2(e), 95 Stat. 1596.

### ADVANCE FUNDING

Sec. 209. (a) For the purpose of affording adequate notice of funding available under this Act, appropriations under this Act are authorized to be included in the appropriation Act for the fiscal year preceding the fiscal year for which they are available for obligation.

(b) In order to effect a transition to the advance funding method of timing appropriation action, subsection (a) shall apply notwithstanding that its initial application will result in the enactment in the same year (whether in the same appropriation Act or otherwise) of two separate appropriations, one for the then current fiscal year and one for the succeeding fiscal year.

(42 U.S.C. 3020) As added May 3, 1973, P.L. 93-29, sec. 201(c), 87 Stat. 36; redesignated and amended December 29, 1981, P.L. 97-115, secs. 2(e), 2(i), 95 Stat. 1596.

### APPLICATION OF OTHER LAWS

SEC. 210. (a) The provisions and requirements of the Act of December 5, 1974 (Public Law 93-510; 88 Stat. 1604) shall not apply to the administration of the provisions of this Act or to the administration of any program or activity under this Act.

(b) No part of the costs of any project under any title of this Act may be treated as income or benefits to any eligible individual (other than any wage or salary to such individual) for the purpose of any other program or provision of Federal or State law.

(42 U.S.C. 3020a) As added November 28, 1975, P.L. 94-135, sec. 102, 89 Stat. 713; amended October 18, 1978, P.L. 95-478, sec. 102(h), 92 Stat. 1515; redesignated and amended December 29, 1981, P.L. 97-115, secs. 2(e), 2(j), 95 Stat. 1596.

### REDUCTION OF PAPERWORK

SEC. 211. In order to reduce unnecessary, duplicative, or disruptive demands for information, the Commissioner, in consultation with State agencies designated under section 305(a)(1) and other appropriate agencies and organizations, shall continually review and evaluate all requests by the Administration on Aging for information under this Act and take such action as may be necessary to reduce the paperwork required under this Act. The Commissioner shall request only such information as the Commissioner deems essential to carry out the purposes and provisions of this Act and, in gathering such information, shall make use of uniform service definitions to the extent that such definitions are available.

(42 U.S.C. 3020b) As added October 18, 1978, P.L. 95-478, sec. 102(i), 92 Stat. 1516; redesignated December 29, 1981, P.L. 97-115, sec. 2(e), 95 Stat. 1596; amended October 9, 1984, P.L. 98-459, sec. 208, 98 Stat. 1771.

### CONTRACTING AND GRANT AUTHORITY

SEC. 212. None of the provisions of this Act shall be construed to prevent a recipient of a grant or a contract from entering into an agreement, subject to the approval of the State agency (or in the case of a grantee under title VI, subject to the recommendation of the Associate Commissioner on American Indian, Alaskan Native, and Native Hawaiian Aging and the approval of the Commissioner), with a profitmaking organization to carry out the provisions of this Act and of the appropriate State plan.

(42 U.S.C. 3020c) As added October 18, 1978, P.L. 95-478, sec. 102(i), 92 Stat. 1516; redesignated December 29, 1981, P.L. 97-115, sec. 2(e), 95 Stat. 1596; amended November 29, 1987, P.L. 100-175, sec. 107(c), 101 Stat. 931.

### SURPLUS PROPERTY ELIGIBILITY

SEC. 213. Any State or local government agency, and any nonprofit organization or institution, which receives funds appropriated for programs for older individuals under this Act, under title IV or title XX of the Social Security Act, or under titles VIII and X of the Economic Opportunity Act of 1964 and the Community Services Block Grant Act, shall be deemed eligible to receive for such programs, property which is declared surplus to the needs of the

Federal Government in accordance with laws applicable to surplus property.

(42 U.S.C. 3020d) As added October 18, 1978, P.L. 95–478, sec. 102(i), 92 Stat. 1516; redesignated and amended December 29, 1981, P.L. 97-115, secs. 2(e), 2(k), 95 Stat. 1596.

# TITLE III—GRANTS FOR STATE AND COMMUNITY PROGRAMS ON AGING [1]

## Part A—General Provisions

### PURPOSE; ADMINISTRATION

Sec. 301. (a) It is the purpose of this title to encourage and assist State and area agencies to concentrate resources in order to develop greater capacity and foster the development and implementation of comprehensive and coordinated service systems to serve older individuals by entering into new cooperative arrangements in each State with State and area agencies, with Indian tribes, tribal organizations, and Native Hawaiian organizations, and with the providers, including voluntary organizations, of supportive services, including nutrition services and multipurpose senior centers, for the planning, and for the provision of, supportive services, nutrition services, and multipurpose senior centers, in order to—

(1) secure and maintain maximum independence and dignity in a home environment for older individuals capable of self care with appropriate supportive services;

(2) remove individual and social barriers to economic and personal independence for older individuals; and

(3) provide a continuum of care for the vulnerable elderly.

(b)(1) In order to effectively carry out the purpose of this title, the Commissioner shall administer programs under this title through the Administration on Aging.

(2) In carrying out the provisions of this title, the Commissioner may request the technical assistance and cooperation of the Department of Education, the Department of Labor, the Department of Housing and Urban Development, the Department of Transportation, the Office of Community Services, the Veterans' Administration, the Alcohol, Drug Abuse, and Mental Health Administration, and such other agencies and departments of the Federal Government as may be appropriate.

(c) The Commissioner shall provide technical assistance and training (by contract, grant, or otherwise) to State long-term care ombudsman programs established under section 307(a)(12), and to individuals designated under such section to be representatives of a long-term care ombudsman, in order to enable such ombudsmen and such representatives to carry out the ombudsman program effectively.

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[1] Title III was completely revised by the Comprehensive Older Americans Act Amendments of 1978 (P.L. 95–478; 92 Stat. 1516). Although the revised title III is similar to the former title in certain respects major changes were made by the Comprehensive Older Americans Act Amendments of 1978. These changes included (1) consolidation into the revised title III of programs contained in former title III (relating to social services), former title V (relating to multipurpose senior centers), and former title VII (relating to nutrition services); and (2) the establishment of separate authorization for congregate nutrition services and home delivered nutrition services. Prior to the amendments made by the Comprehensive Older Americans Act Amendments of 1978, former title III had been extensively revised by the Older Americans Comprehensive Services Amendments of 1973 (P.L. 93-29; 87 Stat. 30).

(42 U.S.C. 3021) As added October 18, 1978, P.L. 95–478, sec. 103(b), 92 Stat. 1517; amended December 29, 1981, P.L. 97–115, secs. 3(a), 3(d), 95 Stat. 1596, 1597; amended October 9, 1984, P.L. 98–459, sec. 301, 98 Stat. 1771; amended November 29, 1987, P.L. 100–175, secs. 104(b), 105(c), 121, and 129(a), 101 Stat. 929–930, 931, 933, 934; amended November 7, 1988, P.L. 100–628, sec. 705, 102 Stat. 3247.

### DEFINITIONS

SEC. 302. For the purpose of this title—

(1) The term "comprehensive and coordinated system" means a system for providing all necessary supportive services, including nutrition services, in a manner designed to—

(A) facilitate accessibility to, and utilization of, all supportive services and nutrition services provided within the geographic area served by such system by any public or private agency or organization;

(B) develop and make the most efficient use of supportive services and nutrition services in meeting the needs of older individuals; and

(C) use available resources efficiently and with a minimum of duplication.

(2) The term "information and referral source" means a location where the State or any public or private agency or organization—

(A) maintains current information with respect to the opportunities and services available to older individuals, and develops current lists of older individuals in need of services and opportunities; and

(B) employs, where feasible, a specially trained staff to assess the needs and capacities of older individuals, to inform older individuals of the opportunities and services which are available, and to assist such individuals to take advantage of such opportunities and services.

(3) The term "long-term care facility" means any skilled nursing facility, as defined in section 1861(j) of the Social Security Act, any intermediate care facility, as defined in section 1905(c) of the Social Security Act, any nursing home, as defined in section 1908(e) of the Social Security Act, any category of institutions regulated by a State pursuant to the provisions of section 1616(e) of the Social Security Act (for purposes of section 307(a)(12)), and any other similar adult care home.

(4) The term "legal assistance" means legal advice and representation by an attorney (including, to the extent feasible, counseling or other appropriate assistance by a paralegal or law student under the supervision of an attorney), and includes counseling or representation by a nonlawyer where permitted by law, to older individuals with economic or social needs.

(5) The term "planning and service area" means an area specified by a State agency under section 305(a)(1)(E).

(6) The term "State agency" means the State agency designated by a State under section 305(a)(1).

(7) The term "unit of general purpose local government" means—

(A) a political subdivision of the State whose authority is general and not limited to only one function or combination of related functions; or

(B) an Indian tribal organization.

(8) The term "education and training service" means a supportive service designed to assist older individuals to better cope with their economic, health, and personal needs through services such as consumer education, continuing education, health education, preretirement education, financial planning, and other education and training services which will advance the objectives of this Act.

(9) The term "older individual" means any individual who is 60 years of age or older.

(10) The term "multipurpose senior center" means a community facility for the organization and provision of a broad spectrum of services, which shall include, but not be limited to, provision of health (including mental health), social, nutritional, and educational services and the provision of facilities for recreational activities for older individuals.

(11) The term "focal point" means a facility established to encourage the maximum collocation and coordination of services for older individuals.

(14) [1] The term "abuse" means the willful—

(A) infliction of injury, unreasonable confinement, intimidation, or cruel punishment with resulting physical harm or pain or mental anguish; or

(B) deprivation by a caretaker of goods or services which are necessary to avoid physical harm, mental anguish, or mental illness.

(15) [1] The term "elder abuse" means abuse of an older individual.

(16) [1] The term "caretaker" means an individual who has the responsibility for the care of an older individual, either voluntarily, by contract, receipt of payment for care, as a result of family relationship, or by order of a court of competent jurisdiction.

(17) [1] The term "exploitation" means the illegal or improper act or process of a caretaker using the resources of an older individual for monetary or personal benefit, profit, or gain.

(18) [1] The term "neglect" means the failure to provide for oneself the goods or services which are necessary to avoid physical harm, mental anguish, or mental illness or the failure of a caretaker to provide such goods or services.

(19) [1] The term "physical harm" means bodily pain, injury, impairment, or disease.

(20) [1] The term "greatest economic need" means the need resulting from an income level at or below the poverty levels established by the Office of Management and Budget.

(21) [1] The term "greatest social need" means the need caused by noneconomic factors which include physical and mental dis-

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[1] Error in amendment made by section 144(a) of Public Law 100–175, 101 Stat. 948. Paragraphs (14) through (21) should be redesignated as paragraphs (12) through (19) respectively.

abilities, language barriers, and cultural, social, or geographical isolation including that caused by racial or ethnic status which restricts an individual's ability to perform normal daily tasks or which threatens such individual's capacity to live independently.

(42 U.S.C. 3022) As added October 18, 1978, P.L. 95–478, sec. 103(b), 92 Stat. 1517; amended December 29, 1981, P.L. 97–115, sec. 3, 95 Stat. 1596–1597; amended October 9, 1984, P.L. 98–459, sec. 302, 98 Stat. 1771; amended November 29, 1987, P.L. 100–175, secs. 136(a)(2), 144(a), 182(a)(2) and (e)(1), 101 Stat. 943, 948, 964.

### AUTHORIZATION OF APPROPRIATIONS; USES OF FUNDS

SEC. 303. (a)(1) There are authorized to be appropriated $379,575,000 for the fiscal year 1988, $398,554,000 for the fiscal year 1989, $418,481,000 for the fiscal year 1990, and $439,406,000 for the fiscal year 1991, for the purpose of making grants under part B of this title (relating to supportive services and senior centers) for purposes other than outreach activities and application assistance under section 307(a)(31).

(2) Subject to subsection (h), there are authorized to be appropriated $20,000,000 for fiscal year 1988 and such sums as may be necessary for each of the fiscal years 1989, 1990, and 1991 to carry out section 307(a)(12).

(3) Subject to subsection (h), there are authorized to be appropriated $10,000,000 for fiscal year 1989, $10,000,000 for fiscal year 1990, and such sums as may be necessary for fiscal year 1991 to carry out section 306(a)(6)(P). Amounts appropriated under this subsection shall remain available until expended.

(b)(1) There are authorized to be appropriated $414,750,000 for the fiscal year 1988, $435,488,000 for the fiscal year 1989, $457,262,000 for the fiscal year 1990, and $480,125,000 for the fiscal year 1991, for the purpose of making grants under subpart 1 of part C of this title (relating to congregate nutrition services).

(2) There are authorized to be appropriated $79,380,000 for the fiscal year 1988, $83,349,000 for the fiscal year 1989, $87,516,000 for the fiscal year 1990, and $91,892,000 for the fiscal year 1991, for the purpose of making grants under subpart 2 of part C of this title (relating to home delivered nutrition services).

(c) Grants made under parts B and C of this title may be used for paying part of the cost of—

(1) the administration of area plans by area agencies on aging designated under section 305(a)(2)(A), including the preparation of area plans on aging consistent with section 306 and the evaluation of activities carried out under such plans; and

(2) the development of comprehensive and coordinated systems for supportive services, congregate and home delivered nutrition services, the development and operation of multipurpose senior centers, and the delivery of legal assistance.

(d) There are authorized to be appropriated $25,000,000 for fiscal year 1988, $26,250,000 for fiscal year 1989, $27,563,000 for fiscal year 1990, and $28,941,000 for fiscal year 1991 for the purpose of making grants under part D of this title (relating to in-home services).

(e) Subject to subsection (h), there are authorized to be appropriated $25,000,000 for fiscal year 1988, $25,000,000 for fiscal year 1989, and such sums as may be necessary for each of the fiscal years 1990 and 1991 to carry out part E (relating to special needs).

(f) Subject to subsection (h), there are authorized to be appropriated $5,000,000 for fiscal year 1988 and such sums as may be necessary for each of the fiscal years 1989, 1990, and 1991 for the purpose of making grants under part F of this title (relating to periodic preventive health, health education, and promotion services).

(g) Subject to subsection (h), there are authorized to be appropriated $5,000,000 for fiscal year 1988 and such sums as may be necessary for each of the fiscal years 1989, 1990, and 1991, to carry out part G (relating to abuse, neglect, and exploitation of older individuals).

(h) No funds may be appropriated under subsection (a)(2), (a)(3), (e), (f), or (g) for a fiscal year unless the aggregate amount appropriated for such fiscal year to carry out this title (other than sections 306(a)(6)(P), 307(a)(12), and 311, and parts E, F, and G), title IV (other than sections 427 and 428), title V, and title VI exceeds 105 percent of the aggregate amount appropriated for the preceding fiscal year to carry out such titles.

(42 U.S.C. 3023) As added October 18, 1978, P.L. 95-478, sec. 103(b), 92 Stat. 1518; amended December 29, 1981, P.L. 97-115, secs. 3(c), 3(d), 95 Stat. 1597; amended October 9, 1984, P.L. 98-459, sec. 303, 98 Stat. 1771; amended November 29, 1987, P.L. 100-175, secs. 122, 129(c), 140(a), 141(a), 143(a), 144(b), 145, and 155(b), 101 Stat. 933, 935, 944, 946, 947, 949, 950, 952.

### ALLOTMENT; FEDERAL SHARE

SEC. 304. (a)(1) Subject to paragraphs (2) and (3) from the sums appropriated under section 303 for each fiscal year, each State shall be allotted an amount which bears the same ratio to such sums as the population aged 60 or older in such State bears to the population aged 60 or older in all States, except that (A) no State shall be allotted less than one-half of 1 percent of the sum appropriated for the fiscal year for which the determination is made; (B) Guam, the Virgin Islands, and the Trust Territory of the Pacific Islands, shall each be allotted not less than one-fourth of 1 percent of the sum appropriated for the fiscal year for which the determination is made; and (C) American Samoa and the Commonwealth of the Northern Mariana Islands shall each be allotted not less than one-sixteenth of 1 percent of the sum appropriated for the fiscal year for which the determination is made. For the purposes of paragraph (3) and the exception contained in clause (A) only, the term "State" does not include Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.

(2) No State shall be allotted less than the total amount allotted to the State under paragraph (1) of this subsection and section 308 for fiscal year 1984.

(3) No State shall be allotted, from the amount appropriated pursuant to section 303(a)(3), less than $50,000 for any fiscal year.

(4) The number of individuals aged 60 or older in any State and in all States shall be determined by the Commissioner on the basis of the most recent satisfactory data available to the Commissioner.

(b) Whenever the Commissioner determines that any amount allotted to a State under part B or C for a fiscal year under this section will not be used by such State for carrying out the purpose for which the allotment was made, the Commissioner shall make such allotment available for carrying out such purpose to one or more other States to the extent the Commissioner determines that such other State will be able to use such additional amount for carrying out such purpose. Any amount made available to a State from an appropriation for a fiscal year in accordance with the preceding sentence shall, for purposes of this title, be regarded as part of such State's allotment (as determined under subsection (a)) for such year, but shall remain available until the end of the succeeding fiscal year.

(c) If the Commissioner finds that any State has failed to qualify under the State plan requirements of section 307, the Commissioner shall withhold the allotment of funds to such State referred to in subsection (a). The Commissioner shall disburse the funds so withheld directly to any public or private nonprofit institution or organization, agency, or political subdivision of such State submitting an approved plan under section 307, which includes an agreement that any such payment shall be matched in the proportion determined under subsection (d)(1)(D) for such State, by funds or in-kind resources from non-Federal sources.

(d)(1) From any State's allotment, after the application of section 308(b), under this section for any fiscal year—

(A) such amount as the State agency determines, but not more than 10 percent thereof, shall be available for paying such percentage as the agency determines, but not more than 75 percent, of the cost of administration of area plans;

(B) such amount (excluding any amount attributable to funds appropriated under section 303(a)(3)) as the State agency determines to be adequate for conducting an effective ombudsman program under section 307(a)(12) shall be available for conducting such program;

(C) after September 30, 1986, such amount (excluding any amount attributable to funds appropriated under section 303(a)(3)) as the State agency determines to be adequate, but not more than 1 percent, for conducting effective demonstration projects in health and nutrition education under section 307(f) shall be available for conducting such projects; and

(D) the remainder of such allotment shall be available to such State only for paying such percentage as the State agency determines, but not more than 85 percent of the cost of supportive services, senior centers, and nutrition services under this title provided in the State as part of a comprehensive and coordinated system in planning and service areas for which there is an area plan approved by the State agency.

(2) The non-Federal share shall be in cash or in kind. In determining the amount of the non-Federal share, the Commissioner may attribute fair market value to services and facilities contributed from non-Federal sources.

(42 U.S.C. 3024) As added October 18, 1978, P.L. 95-478, sec. 103(b), 92 Stat. 1519; amended December 29, 1981, P.L. 97-115, sec. 4, 95 Stat. 1597; amended October 9,

1984, P.L. 98-459, sec. 304, 98 Stat. 1772; amended November 29, 1987, P.L. 100-175, secs. 123, 155(c), and 182(f), 101 Stat. 933, 952, 965.

### ORGANIZATION

SEC. 305. (a) In order for a State to be eligible to participate in programs of grants to States from allotments under this title—

(1) the State shall, in accordance with regulations of the Commissioner, designate a State agency as the sole State agency to—

(A) develop a State plan to be submitted to the Commissioner for approval under section 307;

(B) administer the State plan within such State;

(C) be primarily responsible for the coordination of all State activities related to the purposes of this Act;

(D) serve as an effective and visible advocate for the elderly by reviewing and commenting upon all State plans, budgets, and policies which affect the elderly and providing technical assistance to any agency, organization, association, or individual representing the needs of the elderly; and

(E) divide the State into distinct planning and service areas (or in the case of a State specified in subsection (b)(5)(A), designate the entire State as a single planning and service area), in accordance with guidelines issued by the Commissioner, after considering the geographical distribution of individuals aged 60 and older in the State, the incidence of the need for supportive services, nutrition services, multipurpose senior centers, and legal assistance, the distribution of older individuals who have greatest economic need (with particular attention to low-income minority individuals) residing in such areas, the distribution of older individuals who have greatest social need (with particular attention to low-income minority indiviudals) residing in such areas, the distribution of older Indians residing in such areas, the distribution of resources available to provide such services or centers, the boundaries of existing areas within the State which were drawn for the planning or administration of supportive services programs, the location of units of general purpose local government within the State, and any other relevant factors; and

(2) the State agency designated under clause (1) shall—

(A) except as provided in subsection (b)(5), designate for each such area after consideration of the views offered by the unit or units of general purpose local government in such area, a public or private nonprofit agency or organization as the area agency on aging for such area;

(B) provide assurances, satisfactory to the Commissioner, that the State agency will take into account, in connection with matters of general policy arising in the development and administration of the State plan for any fiscal year, the views of recipients of supportive services or nutrition services, or individuals using multipurpose senior centers provided under such plan;

(C) develop a formula, in accordance with guidelines issued by the Commissioner, for the distribution within the State of funds received under this title, taking into account, to the maximum extent feasible, the best available statistics on the geographical distribution of individuals aged 60 and older in the State, and publish such formula for review and comment in accordance with subsection (d);

(D) submit its formula developed under subclause (C) to the Commissioner for review and comment;

(E) provide assurance that preference will be given to providing services to older individuals with the greatest economic or social needs, with particular attention to low-income minority individuals, and include proposed methods of carrying out the preference in the State plan; and

(F) assure the use of outreach efforts that will identify individuals eligible for assistance under this Act, with special emphasis on older individuals with the greatest economic or social needs (with particular attention to low-income minority individuals) and inform such individuals of the availability of such assistance.

(b)(1) In carrying out the requirement of clause (1) of subsection (a), the State may designate as a planning and service area any unit of general purpose local government which has a population of 100,000 or more. In any case in which a unit of general purpose local government makes application to the State agency under the preceding sentence to be designated as a planning and service area, the State agency shall, upon request, provide an opportunity for a hearing to such unit of general purpose local government. A State may designate as a planning and service area under clause (1) of subsection (a) any region within the State recognized for purposes of areawide planning which includes one or more such units of general purpose local government when the State determines that the designation of such a regional planning and service area is necessary for, and will enhance, the effective administration of the programs authorized by this title. The State may include in any planning and service area designated under clause (1) of subsection (a) such additional areas adjacent to the unit of general purpose local government or regions so designated as the State determines to be necessary for, and will enhance the effective administration of the programs authorized by this title.

(2) The State is encouraged in carrying out the requirement of clause (1) of subsection (a) to include the area covered by the appropriate economic development district involved in any planning and service area designated under such clause, and to include all portions of an Indian reservation within a single planning and service area, if feasible.

(3) The chief executive officer of each State in which a planning and service area crosses State boundaries, or in which an interstate Indian reservation is located, may apply to the Commissioner to request redesignation as an interstate planning and service area comprising the entire metropolitan area or Indian reservation. If the Commissioner approves such an application, the Commissioner shall adjust the State allotments of the areas within the planning

and service area in which the interstate planning and service area is established to reflect the number of older individuals within the area who will be served by an interstate planning and service area not within the State.

(4) Whenever a unit of general purpose local government, a region, a metropolitan area or an Indian reservation is denied designation under the provisions of clause (1) of subsection (a), such unit of general purpose local government, region, metropolitan area, or Indian reservation may appeal the decision of the State agency to the Commissioner. The Commissioner shall afford such unit, region, metropolitan area, or Indian reservation an opportunity for a hearing. In carrying out the provisions of this paragraph, the Commissioner may approve the decision of the State agency, disapprove the decision of the State agency and require the State agency to designate the unit, region, area, or Indian reservation appealing the decision as a planning and service area, or take such other action as the Commissioner deems appropriate.

(5)(A) A State which on or before October 1, 1980, had designated, with the approval of the Commissioner, a single planning and service area covering all of the older individuals in the State, in which the State agency was administering the area plan, may after that date designate one or more additional planning and service areas within the State to be administered by public or private nonprofit agencies or organizations as area agencies on aging, after considering the factors specified in subsection (a)(1)(E). The State agency shall continue to perform the functions of an area agency for any area of the State not included in a planning and service area for which an area agency has been designated.

(B) Whenever a State agency designates a new area agency on aging after the date of enactment of the Older Americans Act Amendments of 1984, the State agency shall give the right to first refusal to a unit of general purpose local government if (i) such unit can meet the requirements of subsection (c), and (ii) the boundaries of such a unit and the boundaries of the area are reasonably contiguous.

(c) An area agency on aging designated under subsection (a) shall be—

(1) an established office of aging which is operating within a planning and service area designated under subsection (a);

(2) any office or agency of a unit of general purpose local government, which is designated to function only for the purpose of serving as an area agency by the chief elected official of such unit;

(3) any office or agency designated by the appropriate chief elected officials of any combination of units of general purpose local government to act only on behalf of such combination for such purpose;

(4) any public or nonprofit private agency in a planning and service area, or any separate organizational unit within such agency, which is under the supervision or direction for this purpose of the designated State agency and which can and will engage only in the planning or provision of a broad range of

supportive services, or nutrition services within such planning and service area; or

(5) in the case of a State specified in subsection (b)(5), the State agency;

and shall provide assurance, determined adequate by the State agency, that the area agency will have the ability to develop an area plan and to carry out, directly or through contractual or other arrangements, a program in accordance with the plan within the planning and service area. In designating an area agency on aging within the planning and service area or within any unit of general purpose local government designated as a planning and service area the State shall give preferance to an established office on aging, unless the State agency finds that no such office within the planning and service area will have the capacity to carry out the area plan.

(d) The publication for review and comment required by clause (2)(C) of subsection (a) shall include—

(1) a descriptive statement of the formula's assumptions and goals, and the application of the definitions of greatest economic or social need,

(2) a numerical statement of the actual funding formula to be used,

(3) a listing of the population, economic, and social data to be used for each planning and service area in the State, and

(4) a demonstration of the allocation of funds, pursuant to the funding formula, to each planning and service area in the State.

(42 U.S.C. 3025) As added October 18, 1978, P.L. 95-478, sec. 103(b), 92 Stat. 1520; amended December 29, 1981, P.L. 97-115, secs. 3(d), 5, 95 Stat. 1597-1598; amended October 9, 1984, P.L. 98-459, sec. 305, 98 Stat. 1773; amended November 29, 1987, P.L. 100-175, secs. 124, 132, 134(a), and 184(e)(2), (g), and (h), 101 Stat. 933-934, 939, 940, 965; amended November 7, 1988, P.L. 100-628, sec. 705, 102 Stat. 3247.

### AREA PLANS

SEC. 306. (a) Each area agency on aging designated under section 305(a)(2)(A) shall, in order to be approved by the State agency, prepare and develop an area plan for a planning and service area for a two-, three-, or four-year period determined by the State agency, with such annual adjustments as may be necessary. Each such plan shall be based upon a uniform format for area plans within the State prepared in accordance with section 307(a)(1). Each such plan shall—

(1) provide, through a comprehensive and coordinated system, for supportive services, nutrition services, and, where appropriate, for the establishment, maintenance, or construction of multipurpose senior centers, within the planning and service area covered by the plan, including determining the extent of need for supportive services, nutrition services, and multipurpose senior centers in such area (taking into consideration, among other things, the number of older individuals with low incomes residing in such area, the number of older individuals who have greatest economic need (with particular attention to low-income minority individuals) residing in such area, the number of older individuals who have greatest social

need (with particular attention to low-income minority individuals) residing in such area, and the number of older Indians residing in such area, and the efforts of voluntary organizations in the community), evaluating the effectiveness of the use of resources in meeting such need, and entering into agreements with providers of supportive services, nutrition services, or multipurpose senior centers in such area, for the provision of such services or centers to meet such need;

(2) provide assurances that an adequate proportion, as required under section 307(a)(22), of the amount allotted for part B to the planning and service area will be expended for the delivery of each of the following categories of services—

(A) services associated with access to services (transportation, outreach, and information and referral);

(B) in-home services (homemaker and home health aides, visiting and telephone reassurance, chore maintenance, and supportive services for families of elderly victims of Alzheimer's disease and related disorders with neurological and organic brain dysfunction; and

(C) legal assistance;

and specify annually in such plan, as submitted or as amended, in detail the amount of funds expended for each such category during the fiscal year most recently concluded;

(3) designate, where feasible, a focal point for comprehensive service delivery in each community, giving special consideration to designating multipurpose senior centers as such focal point;

(4) provide for the establishment and maintenance of information and referral services in sufficient numbers to assure that all older individuals within the planning and service area covered by the plan will have reasonably convenient access to such services;

(5)(A)(i) provide assurances that preference will be given to providing services to older individuals with the greatest economic or social needs, with particular attention to low-income minority individuals, and include proposed methods of carrying out the preference in the area plan;

(ii) provide assurances that the area agency will include in each agreement made with a provider of any service under this title, a requirement that such provider will—

(I) specify how the provider intends to satisfy the service needs of low-income minority individuals in the area served by the provider; and

(II) attempt to provide services to low-income minority individuals in at least the same proportion as the population of low-income minority older individuals bears to the population of older individuals of the area served by such provider; and

(iii) with respect to the fiscal year preceding the fiscal year for which such plan is prepared—

(I) identify the number of low-income minority older individuals in the planning and service area; and

(II) describe the methods used to satisfy the service needs of such minority older individuals; and

(B) assure the use of outreach efforts that will identify individuals eligible for assistance under this Act, with special emphasis on rural elderly, older individuals who have greatest economic need (with particular attention to low-income minority individuals), older individuals who have greatest social need (with particular attention to low-income minority individuals), and older individuals with severe disabilities, and inform such individuals of the availability of such assistance;

(6) provide that the area agency on aging will—

(A) conduct periodic evaluations of, and public hearings on, activities carried out under the area plan and an annual evaluation of the effectiveness of outreach conducted under paragraph (5)(B);

(B) furnish appropriate technical assistance to providers of supportive services, nutrition services, or multipurpose senior centers in the planning and service area covered by the area plan;

(C) take into account in connection with matters of general policy arising in the development and administration of the area plan, the views of recipients of services under such plan;

(D) serve as the advocate and focal point for the elderly within the community by monitoring, evaluating, and commenting upon all policies, programs, hearings, levies, and community actions which will affect the elderly;

(E) where possible, enter into arrangements with organizations providing day care services for children or adults, and respite for families, so as to provide opportunities for older individuals to aid or assist on a voluntary basis in the delivery of such services to children, adults, and families;

(F) establish an advisory council consisting of older individuals (including minority individuals) who are participants or who are eligible to participate in programs assisted under this Act, representatives of older individuals, local elected officials, providers of veterans' health care (if appropriate), and the general public, to advise continuously the area agency on all matters relating to the development of the area plan, the administration of the plan and operations conducted under the plan;

(G) develop and publish methods by which priority of services is determined, particularly with respect to the delivery of services under clause (2);

(H) establish effective and efficient procedures for coordination between the programs assisted under this title and programs described in section 203(b);

(I) conduct efforts to facilitate the coordination of community-based, long-term care services designed to retain individuals in their homes, thereby deferring unnecessary, costly institutionalization, and designed to emphasize the development of client-centered case management systems as a component of such services;

(J) identify the public and private nonprofit entities involved in the prevention, identification, and treatment of the abuse, neglect, and exploitation of older individuals, and based on such identification, determine the extent to which the need for appropriate services for such individuals is unmet;

(K) facilitate the involvement of long-term care providers in the coordination of community-based long-term care services and work to ensure community awareness of and involvement in addressing the needs of residents of long-term care facilities;

(L) coordinate the categories of services specified in paragraph (2) for which the area agency on aging is required to expend funds under part B, with activities of community-based organizations established for the benefit of victims of Alzheimer's disease and the families of such victims;

(M) coordinate any mental health services provided with funds expended by the area agency on aging for part B with the mental health services provided by community health centers and by other public agencies and nonprofit private organizations;

(N) if there is a significant population of older Indians in the planning and service area of the area agency, the area agency shall conduct outreach activities to identify elder Indians in such area and shall inform such older Indians of the availability of assistance under this Act;

(O)(i) compile available information on institutions of higher education in the planning and service area regarding—

(I) the courses of study offered to older individuals by such institutions; and

(II) the policies of such institutions with respect to the enrollment of older individuals with little or no payment of tuition, on a space available basis, or on another special basis;

and include in such compilation such related supplementary information as may be necessary; and

(ii) based on the results of such compilation, make a summary of such information available to older individuals at multipurpose senior centers, congregate nutrition sites, and other appropriate places; and

(P) with funds and information received under section 307(a)(31) from the State agency—

(i) carry out activities to identify older individuals with greatest economic need who may be eligible to receive, but are not receiving, supplemental security income benefits under title XVI of the Social Security Act (or assistance under a State plan program under title XVI of that Act), medical assistance under title XIX of the Social Security Act, and benefits under the Food Stamp Act of 1977;

(ii) conduct outreach activities to inform older individuals of the requirements for eligibility to receive such assistance and such benefits; and

(iii) assist older individuals to apply for such assistance and such benefits;

(7) provide assurances that any amount received under part D will be expended in accordance with such part;

(8) provide assurances that any amount received under part E will be expended in accordance with such part;

(9) provide assurances that any amount received under part F will be expended in accordance with such part; and

(10) provide assurances that any amount received under part G will be expended in accordance with such part.

(b)(1) Each State, in approving area agency plans under this section, shall waive the requirement described in clause (2) of subsection (a) for any category of services described in such clause if the area agency on aging demonstrates to the State agency that services being furnished for such category in the area are sufficient to meet the need for such services in such area.

(2)(A) Before an area agency on aging requests a waiver under paragraph (1) of this subsection, the area agency on aging shall conduct a timely public hearing in accordance with the provisions of this paragraph. The area agency on aging requesting a waiver shall notify all interested parties in the area of the public hearing and furnish the interested parties with an opportunity to testify.

(B) The area agency on aging shall prepare a record of the public hearing conducted pursuant to subparagraph (A) and shall furnish the record of the public hearing with the request for a waiver made to the State under paragraph (1).

(C) Whenever the State agency proposes to grant a waiver to an area agency under this subsection, the State agency shall publish the intention to grant such a waiver together with the justification for the waiver at least 30 days prior to the effective date of the decision to grant the waiver. An individual or a service provider from the area with respect to which the proposed waiver applies is entitled to request a hearing before the State agency on the request to grant such waiver. If, within the 30-day period described in the first sentence of this subparagraph, an individual or service provider requests a hearing under this subparagraph, the State agency shall afford such individual or provider an opportunity for a hearing.

(D) If the State agency waives the requirement described in clause (2) of subsection (a), the State agency shall provide to the Commissioner—

(i) a report regarding such waiver that details the demonstration made by the area agency on aging to obtain such waiver;

(ii) a copy of the record of the public hearing conducted pursuant to subparagraph (A); and

(iii) a copy of the record of any public hearing conducted pursuant to subparagraph (C).

(c)(1) Subject to regulations prescribed by the Commissioner, an area agency on aging designated under section 305(a)(2)(A) or, in areas of a State where no such agency has been designated, the State agency, may enter into agreement with agencies administering programs under the Rehabilitation Act of 1973, and titles XIX and XX of the Social Security Act for the purpose of developing and implementing plans for meeting the common need for transportation services of individuals receiving benefits under such Acts and older individuals participating in programs authorized by this title.

(2) In accordance with an agreement entered into under paragraph (1), funds appropriated under this title may be used to purchase transportation services for older individuals and may be pooled with funds made available for the provision of transportation services under the Rehabilitation Act of 1973, and titles XIX and XX of the Social Security Act.

(d) An area agency on aging may not require any provider of legal assistance under this title to reveal any information that is protected by the attorney-client privilege.

(42 U.S.C. 3026) As added October 18, 1978, P.L. 95-478, sec. 103(b), 92 Stat. 1522; amended December 29, 1981, P.L. 97-115, secs. 3(d), 6, 95 Stat. 1597, 1598; amended October 9, 1984, P.L. 98-459, sec. 306, 98 Stat. 1774; amended November 29, 1987, P.L. 100-175, secs. 104(c), 125, 126, 127, 130(a), 131(a), 132(b), 133, 134, 135, 136(b), 137(a), 140(b), 141(b), 143(b), 144(c), 155(e)(1), 182, 101 Stat. 930, 934, 938, 939, 940, 941, 942, 943, 944, 946, 947, 949, 953, 965; amended November 7, 1988, P.L. 100-628, sec. 705, 102 Stat. 3247.

### STATE PLANS

SEC. 307. (a) Except as provided in section 309(a), each State, in order to be eligible for grants from its allotment under this title for any fiscal year, shall submit to the Commissioner a State plan for a two-, three-, or four-year period determined by the State agency, with such annual revisions as are necessary, which meets such criteria as the Commissioner may by regulation prescribe. Each such plan shall comply with all of the following requirements:

(1) The plan shall contain assurances that the State plan will be based upon area plans developed by area agencies on aging within the State designated under section 305(a)(2)(A) and that the State will prepare and distribute a uniform format for use by area agencies in developing area plans under section 306.

(2) The plan shall provide that each area agency on aging designated under section 305(a)(2)(A) will develop and submit to the State agency for approval an area plan which complies with the provisions of section 306.

(3)(A) The plan shall provide that the State agency will evaluate the need for supportive services (including legal assistance), nutrition services, and multipurpose senior centers within the State and determine the extent to which existing public or private programs meet such need.

(B) The plan shall provide assurances that the State agency will spend in each fiscal year, for services to older individuals residing in rural areas in the State assisted under this title, an amount equal to not less than 105 percent of the amount expended for such services (including amounts expended under title V and title VII) in fiscal year 1978.

(4) The plan shall provide for the use of such methods of administration (including methods relating to the establishment and maintenance of personnel standards on a merit basis, except that the Commissioner shall exercise no authority with respect to the selection, tenure of office, or compensation of any individual employed in accordance with such methods) as are necessary for the proper and efficient administration of the plan, and, where necessary, provide for the reorganization and reassignment of functions to assure such efficient administration.

(5) The plan shall provide that the State agency will afford an opportunity for a hearing upon request to any agency on aging submitting a plan under this title, to any provider of a service under such a plan, or to any applicant to provide a service under such a plan.

(6) The plan shall provide that the State agency will make such reports, in such form, and containing such information, as the Commissioner may require, and comply with such requirements as the Commissioner may impose to insure the correctness of such reports.

(7) The plan shall provide satisfactory assurance that such fiscal control and fund accounting procedures will be adopted as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid under this title to the State, including any such funds paid to the recipients of a grant or contract.

(8) The plan shall provide that the State agency will conduct periodic evaluations of, and public hearings on, activities and projects carried out under the State plan, including an evaluation of the effectiveness of the State agency in reaching older individuals with the greatest economic or social needs, with particular attention to low-income minority individuals.

(9) The plan shall provide for establishing and maintaining information and referral services in sufficient numbers to assure that all older individuals in the State who are not furnished adequate information and referral services under section 306(a)(4) will have reasonably convenient access to such services.

(10) The plan shall provide that no supportive services, nutrition services, or in-home services (as defined in section 342(1)) will be directly provided by the State agency or an area agency on aging, except where, in the judgment of the State agency, provision of such services by the State agency or an area agency on aging is necessary to assure an adequate supply of such services, or where such services are directly related to such State or area agency on aging's administrative functions, or where such services of comparable quality can be provided more economically by such State or area agency on aging.

(11) The plan shall provide that subject to the requirements of merit employment systems of State and local governments, preference shall be given to individuals aged 60 or older for any staff positions (full time or part time) in State and area agencies for which such individuals qualify.

(12) The plan shall provide the following assurances, with respect to a long-term care ombudsman program:

(A) The State agency will establish and operate, either directly or by contract or other arrangement with any public agency or other appropriate private nonprofit organization, other than an agency or organization which is responsible for licensing or certifying long-term care services in the State or which is an association (or an affiliate of such an association) of long-term care facilities (including any other residential facility for older individuals), an Office of the State Long-Term Care Ombudsman (in this paragraph referred to as the "Office") and shall carry out through the Office a long-term care ombudsman program which provides an individual who will, on a full-time basis—

(i) investigate and resolve complaints made by or on behalf of older individuals who are residents of long-term care facilities relating to action, inaction, or decisions of providers, or their representatives, of long-term care services, of public agencies, or of social service agencies, which may adversely affect the health, safety, welfare, or rights of such residents;

(ii) provide for training staff and volunteers and promote the development of citizen organizations to participate in the ombudsman program; and

(iii) carry out such other activities as the Commissioner deems appropriate.

(B) The State agency will establish procedure for appropriate access by the ombudsman to long-term care facilities and patients' records, including procedures to protect the confidentiality of such records and ensure that the identity of any complainant or resident will not be disclosed without the written consent of such complainant or resident, or upon court order.

(C) The State agency will establish a statewide uniform reporting system to collect and analyze data relating to complaints and conditions in long-term care facilities for the purpose of identifying and resolving significant problems, with provision for submission of such data to the agency of the State responsible for licensing or certifying long-term care facilities in the State and to the Commissioner on a regular basis.

(D) The State agency will establish procedures to assure that any files maintained by the ombudsman progam shall be disclosed only at the discretion of the ombudsman having authority over the disposition of such files, except that the identity of any complainant or resident of a long-term care facility shall not be disclosed by such ombudsman unless—

(i) such complainant or resident, or the individual's legal representative, consents in writing to such disclosure; or

(ii) such disclosure is required by court order.

(E) In planning and operating the ombudsman program, the State agency will consider the views of area agencies on aging, older individuals, and provider agencies.

(F) The State agency will—

(i) ensure that no individual involved in the designation of the long-term care ombudsman (whether by appointment or otherwise) or the designation of the head of any subdivision of the Office is subject to a conflict of interest;

(ii) ensure that no officer, employee, or other representative of the Office is subject to a conflict of interest; and

(iii) ensure that mechanisms are in place to indentify and remedy any such or other similar conflicts.

(G) The State agency will—

(i) ensure that adequate legal counsel is available to the Office for advice and consultation and that legal representation is provided to any representative of the Office against whom suit or other legal action is brought in connection with the performance of such representative's official duties; and

(ii) ensure that the Office has the ability to pursue administrative, legal, and other appropriate remedies on behalf of residents of long-term care facilities.

(H) The State agency will require the Office to—

(i) prepare an annual report containing data and findings regarding the types of problems experienced and complaints received by or on behalf of individuals residing in long-term care facilities, and to provide policy, regulatory, and legislative recommendations to solve such problems, resolve such complaints, and improve the quality of care and life in long-term care facilities;

(ii) analyze and monitor the development and implementation of Federal, State, and local laws, regulations, and policies with respect to long-term care facilities and services in that State, and recommend any changes in such laws, regulations, and policies deemed by the Office to be appropriate;

(iii) provide information to public agencies, legislators, and others, as deemed necessary by the Office, regarding the problems and concerns, including recommendations related to such problems and concerns, of older individuals residing in long-term care facilities;

(iv) provide for the training of the Office staff, including volunteers and other representatives of the Office, in—

(I) Federal, State, and local laws, regulations, and policies with respect to long-term care facilities in the State;

(II) investigative techniques; and

(III) such other matters as the State deems appropriate;

(v) coordinate ombudsman services with the protection and advocacy systems for individuals with developmental disabilities and mental illness established under part A of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001 et seq.) and under the Protection and Advocacy for Mentally Ill Individuals Act of 1986 (Public Law 99-319); and

(vi) include any area or local ombudsman entity designated by the State Long-Term Care Ombudsman as a subdivision of the Office. Any representative of an entity designated in accordance with the preceding sentence (whether an employee or an unpaid volunteer) shall be treated as a representative of the Office for purposes of this paragraph.

(I) The State will ensure that no representative of the Office will be liable under State law for the good faith performance of official duties.

(J) The State will—

(i) ensure that willful interference with representatives of the Office in the performance of their official duties (as defined by the Commissioner) shall be unlawful;

(ii) prohibit retaliation and reprisals by a long-term care facility or other entity with respect to any resident or employee for having filed a complaint with, or providing information to, the Office;

(iii) provide for appropriate sanctions with respect to such interference, retaliation, and reprisals; and

(iv) ensure that representatives of the Office shall have—

(I) access to long-term care facilities and their residents; and

(II) with the permission of a resident or resident's legal guardian, have access to review the resident's medical and social records or, if a resident is unable to consent to such review and has no legal guardian, appropriate access to the resident's medical and social records.

(K) The State agency will prohibit any officer, employee, or other representative of the Office to investigate any complaint filed with the Office unless the individual has received such training as may be required under subparagraph (G)(iv) and has been approved by the long-term care ombudsman as qualified to investigate such complaints.

(13) The plan shall provide with respect to nutrition services that—

(A) each project providing nutrition services will be available to individuals aged 60 or older and to their spouses, and may be made available to handicapped or disabled individuals who have not attained 60 years of age but who reside in housing facilities occupied primarily by the elderly at which congregate nutrition services are provided;

(B) primary consideration shall be given to the provision of meals in a congregate setting, except that each area agency (i) may award funds made available under this title to organizations for the provision of home delivered meals to older individuals in accordance with the provisions of subpart 2 of part C, based upon a determination of need made by the recipient of a grant or contract entered into under this title, without requiring that such organizations also provide meals to older individuals in a congregate setting; and (ii) shall, in awarding such funds, select such organizations in a manner which complies with the provisions of subclause (H);

(C)(i) each project will permit recipients of grants or contracts to solicit voluntary contributions for meals furnished in accordance with guidelines established by the Commissioner, taking into consideration the income ranges of eligible individuals in local communities and other sources of income of the recipients of a grant or contract; and (ii) such voluntary contributions will be used to increase the number of meals served by the project involved, to facilitate access to such meals, and to provide other supportive services directly related to nutrition services;

(D) in the case of meals served in a congregate setting, a site for such services and for comprehensive supportive services is furnished in as close proximity to the majority of eligible individuals' residences as feasible, with particular attention upon a multipurpose senior center, a school, a church, or other appropriate community facility, preferably within walking distance where possible, and where appropriate, transportation to such site is furnished;

(E) each project will establish outreach activities which assure that the maximum number of eligible individuals may have an opportunity to participate;

(F) each project may establish and administer the nutrition project with the advice of persons competent in the field of service in which the nutrition project is being provided, older individuals who will participate in the program, and of persons who are knowledgeable with regard to the needs of older individuals;

(G) each project will provide special menus, where feasible and appropriate to meet the particular dietary needs arising from the health requirements, religious requirements, or ethnic backgrounds of eligible individuals;

(H) each area agency will give consideration where feasible, in the furnishing of home delivered meals to the use of organizations which (i) have demonstrated an ability to provide home delivered meals efficiently and reasonably; and (ii) furnish assurances to the area agency that such an organization will maintain efforts to solicit voluntary support and that the funds made available under this title to the organization will not be used to supplant funds from non-Federal sources; and

(I) each area agency shall establish procedures that will allow nutrition project administrators the option to offer a meal, on the same basis as meals are provided to elderly participants, to individuals providing volunteer services during the meal hours, and to individuals with disabilities who reside at home with and accompany older individuals who are eligible under this Act.

(14) The plan shall provide, with respect to the acquisition (in fee simple or by lease for 10 years or more), alteration, or renovation of existing facilities (or the construction of new facilities in any area in which there are no suitable structures available, as determined by the State agency, after full consideration of the recommendations made by area agencies, to be a focal point for the delivery of services assisted under this title) to serve as multipurpose senior centers, that—

(A) the plan contains or is supported by reasonable assurances that (i) for not less than 10 years after acquisition, or not less than 20 years after the completion of construction, the facility will be used for the purpose for which it is to be acquired or constructed, unless for unusual circumstances the Commissioner waives the requirement of this division; (ii) sufficient funds will be available to meet the non-Federal share of the cost of acquisition or construction of the facility; (iii) sufficient funds will be available when acquisition or construction is completed, for effective use of the facility for the purpose for which it is being acquired or constructed; and (iv) the facility will not be used and is not intended to be used for sectarian instruction or as a place for religious worship;

(B) the plan contains or is supported by reasonable assurances that, in the case of purchase or construction, there are no existing facilities in the community suitable for leasing as a multipurpose senior center;

(C) the plans and specifications for the facility are in accordance with regulations relating to minimum standards of construction, promulgated with particular emphasis on securing compliance with the requirements of the Act of August 12, 1968, commonly known as the Architectural Barriers Act of 1968;

(D) the plan contains or is supported by adequate assurance that any laborer or mechanic employed by any contractor or subcontractor in the performance of work on the facility will be paid wages at rates not less than those prevailing for similar work in the locality as determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (40 U.S.C. 276a—276a-5, commonly known as the Davis-Bacon Act), and the Secretary of Labor shall have, with respect to the labor standards specified in this clause, the authority and functions set forth in reorganization plan numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267), and section 2 of the Act of June 13, 1934 (40 U.S.C. 276c); and

(E) the plan contains assurances that the State agency will consult with the Secretary of Housing and Urban Development with respect to the technical adequacy of any proposed alteration or renovation.

(15) The plan shall provide that with respect to legal assistance—

(A) the plan contains assurances that area agencies on aging will (i) enter into contracts with providers of legal assistance which can demonstrate the experience or capacity to deliver legal assistance; (ii) include in any such contract provisions to assure that any recipient of funds under division (i) will be subject to specific restrictions and regulations promulgated under the Legal Services Corporation Act (other than restrictions and regulations governing eligibility for legal assistance under such Act and governing membership of local governing boards) as determined appropriate by the Commissioner; and (iii) attempt to involve the private bar in legal assistance activities authorized under this title, including groups within the private bar furnishing services to older individuals on a pro bono and reduced fee basis;

(B) the plan contains assurances that no legal assistance will be furnished unless the grantee administers a program designed to provide legal assistance to older individuals with social or economic need and has agreed, if the grantee is not a Legal Services Corporation project grantee, to coordinate its services with existing Legal Services Corporation projects in the planning and service area in order to concentrate the use of funds provided under this title on individuals with the greatest such need; and the area agency makes a finding, after assessment, pursuant to standards for service promulgated by the Commissioner, that any grantee selected is the entity best able to provide the particular services;

(C) the State agency will provide for the coordination of the furnishing of legal assistance to older individuals within the State, and provide advice and technical assistance in the provision of legal assistance to older individuals within the State and support the furnishing of training and technical assistance for legal assistance for older individuals; and

(D) the plan contains assurances, to the extent practicable, that legal assistance furnished under the plan will be in addition to any legal assistance for older individuals being furnished with funds from sources other than this Act and that reasonable efforts will be made to maintain existing levels of legal assistance for older individuals.

(16) The plan shall provide that whenever the State desires to, if funds are not appropriated under section 303(g) for a fiscal year, provide that for such fiscal year for services for the prevention of abuse of older individuals—

(A) the plan contains assurances that any area agency on aging carrying out such services will conduct a program consistent with relevant State law and coordinated with existing State adult protective service activities for—

(i) public education to identify and prevent abuse of older individuals;

(ii) receipt of reports of abuse of older individuals;

(iii) active participation of older individuals participating in programs under this Act through outreach, conferences, and referral of such individuals to other social service agencies or sources of assistance where appropriate and consented to by the parties to be referred; and

(iv) referral of complaints to law enforcement or public protective service agencies where appropriate;

(B) the State will not permit involuntary or coerced participation in the program of services described in this clause by alleged victims, abusers, or their households; and

(C) all information gathered in the course of receiving reports and making referrals shall remain confidential unless all parties to the complaint consent in writing to the release of such information, except that such information may be released to a law enforcement or public protective service agency.

(17) The plan shall provide assurances that each State will provide inservice training opportunities for personnel of agencies and programs funded under this Act.

(18) The plan shall provide assurances that each State will assign personnel to provide State leadership in developing legal assistance programs for older individuals throughout the State.

(19) The plan shall provide, with respect to education and training services, assurances that area agencies on aging may enter into grants and contracts with providers of education and training services which can demonstrate the experience or capacity to provide such services (except that such contract authority shall be effective for any fiscal year only to such extent, or in such amounts, as are provided in appropriations Acts).

(20) The plan shall provide assurances that, if a substantial number of the older individuals residing in any planning and service area in the State are of limited English-speaking ability, then the State will require the area agency on aging for each such planning and service area—

(A) to utilize in the delivery of outreach services under sections 306(a)(2)(A) and 306(a)(6)(P), the services of workers who are fluent in the language spoken by a predominant number of such older individuals who are of limited English-speaking ability; and

(B) to designate an individual employed by the area agency on aging, or available to such area agency on aging on a full-time basis, whose responsibilities will include—

(i) taking such action as may be appropriate to assure that counseling assistance is made available to such older individuals who are of limited English-speaking ability in order to assist such older individuals in participating in programs and receiving assistance under this Act; and

(ii) providing guidance to individuals engaged in the delivery of supportive services under the area plan involved to enable such individuals to be aware of cultural sensitivities and to take into account effectively linguistic and cultural differences.

(21) The State plan shall provide that the State agency, from funds allotted under section 304(a) for part B and for paragraph (12) (relating to the State long-term care ombudsman) shall expend to carry out paragraph (12), for each fiscal year in which the allotment for part B for the State is not less than the allotment for fiscal year 1987 for part B for such State, an amount which is not less than the amount expended from funds received under this Act by such State in fiscal year 1987 to carry out paragraph (12) as in effect before the effective date of the Older Americans Act Amendments of 1987. This paragraph shall not apply to American Samoa, Guam, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.

(22) The plan shall specify a minimum percentage of the funds received by each area agency for part B that will be expended, in the absence of the waiver granted under section 306(b)(1), by such area agency to provide each of the categories of services specified in section 306(a)(2).

(23) The plan shall, with respect to the fiscal year preceding the fiscal year for which such plan is prepared—

(A) identify the number of low-income minority older individuals in the State; and

(B) describe the methods used to satisfy the service needs of such minority older individuals.

(24) The plan shall provide assurances that the State agency will require outreach efforts that will—

(A) identify older individuals who are eligible for assistance under this title, with special emphasis on older individuals with greatest economic need (with particular attention) to low-income minority individuals), older individuals with greatest social need (with particular attention to low-income minority individuals), and older individuals who reside in rural areas; and

(B) inform such individuals of the availability of such assistance.

(25) The plan shall provide, with respect to the needs of older individuals with severe disabilities, assurances that the State will coordinate planning, identification, assessment of needs, and service for older individuals with disabilities with particular attention to individuals with severe disabilities with the State agencies with primary responsibility for individuals with disabilities, including severe disabilities, and develop collaborative programs, where appropriate, to meet the needs of older individuals with disabilities.

(26) The plan shall provide assurances that area agencies on aging will conduct efforts to facilitate the coordination of community-based, long-term care services, pursuant to section 306(a)(6)(I), for older individuals who—

(A) reside at home and are at risk of institutionalization because of limitations on their ability to function independently;

(B) are patients in hospitals and are at risk of prolonged institutionalization; or

(C) are patients in long-term care facilities, but who can return to their homes if community-based services are provided to them.

(27) The plan shall provide assurances of consultation and coordination in planning and provision of in-home services under section 341 with State and local agencies and private nonprofit organizations which administer and provide services relating to health, social services, rehabilitation, and mental health services.

(28) The plan shall provide assurances that if the State receives funds appropriated under section 303(e), the State agency and area agencies on aging will expend such funds to carry out part E.

(29) The plan shall, with respect to the fiscal year preceding the fiscal year for which such plan is prepared, describe the methods used to satisfy the service needs of older individuals who reside in rural areas.

(30) The plan shall provide assurances that if the State receives funds appropriated under section 303(g), the State agency and area agencies on aging will expend such funds to carry out part G.

(31) The plan shall provide that the State agency—

(A) from funds allotted for fiscal year 1989 under section 304(a) for part B that are attributable to the amount appropriated under section 303(a)(3), will make funds available to eligible area agencies on aging to carry out section 306(a)(6)(P) and, in distributing such funds among eligible area agencies, will give priority to area agencies on aging based on—

(i) the number of older individuals with greatest economic need (as defined in section 302(20)) residing in their respective planning and service areas; and

(ii) the inadequacy in such areas of outreach activities and application assistance of the type specified in section 306(a)(6)(P);

(B) will require, as a condition of eligibility to receive funds under this paragraph, an area agency on aging to submit an application that—

(i) describes the activities for which such funds are sought;

(ii) provides for an evaluation of such activities by the area agency; and

(iii) includes assurances that the area agency will prepare and submit to the State agency a report of the activities conducted with funds provided under this paragraph and the evaluation of such activities;

(C) will distribute to area agencies on aging—

(i) the eligibility information received under section 202(a)(20) from the Administration; and

(ii) information, in written form, explaining the requirements for eligibility to receive medical assistance under title XIX of the Social Security Act; and

(D) will submit to the Commissioner a report on the evaluations required to be submitted under section 307(a)(31)(B).

(b)(1) The Commissioner shall approve any State plan which the Commissioner finds fulfills the requirements of subsection (a).

(2) The Commissioner, in approving any State plan under this section, may waive the requirement described in clause (3)(B) of subsection (a) if the State agency demonstrates to the Commissioner that the service needs of older individuals residing in rural areas in the State are being met, or that the number of older individuals residing in such rural areas is not sufficient to require the State agency to comply witn the requirement described in clause (3)(B) of subsection (a).

(c) The Commissioner shall not make a final determination disapproving any State plan, or any modification thereof, or make a final determination that a State is ineligible under section 305, without first affording the State reasonable notice and opportunity for a hearing.

(d) Whenever the Commissioner, after reasonable notice and opportunity for a hearing to the State agency, finds that—

(1) the State is not eligible under section 305,

(2) the State plan has been so changed that it no longer complies substantially with the provisions of subsection (a), or

(3) in the administration of the plan there is a failure to comply substantially with any such provision of subsection (a),

the Commissioner shall notify such State agency that no further payments from its allotments under section 304 and section 308 will be made to the State (or, in the Commissioner's discretion, that further payments to the State will be limited to projects under or portions of the State plan not affected by such failure), until the Commissioner is satisfied that there will no longer be any failure to comply. Until the Commissioner is so satisfied, no further payments shall be made to such State from its allotments under section 304 and section 308 (or payments shall be limited to projects under or portions of the State plan not affected by such failure). The Commissioner shall, in accordance with regulations the Commissioner shall prescribe, disburse the funds so withheld directly to any public or nonprofit private organization or agency or political subdivision of such State submitting an approved plan in accordance with the provisions of this section. Any such payment shall be matched in the proportions specified in section 304.

(e)(1) A State which is dissatisfied with a final action of the Commissioner under subsection (b), (c), or (d) may appeal to the United States court of appeals for the circuit in which the State is located, by filing a petition with such court within 30 days after such final action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Commissioner, or any officer designated by the Commissioner for such purpose. The Commissioner thereupon shall file in the court the record of the proceedings on which the Commissioner's action is based, as provided in section 2112 of title 28, United States Code.

(2) Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Commissioner or to set it aside, in whole or in part, temporarily or permanently, but until the filing of the record, the Commissioner may modify or set aside the Commissioner's order. The findings of the Commissioner as to the facts, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown may remand the case to the Commissioner to take further evidence, and the Commissioner shall, within 30 days, file in the court the record of those further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence. The judgment of the court affirming or setting aside, in whole or in part, any action of the Commissioner shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

(3) The commencement of proceedings under this subsection shall not, unless so specifically ordered by the court, operate as a stay of the Commissioner's action.

(f)(1) From amounts made available under section 304(d)(1)(C) after September 30, 1986, each State shall provide for the establishment of at least one demonstration project for health and nutrition education to be conducted by one or more area agencies on aging within the State based on the information and materials disseminated under section 704(d)(2).

(2) Each such project shall—

(A) be administered by the area agency for the purpose of improving the health and nutrition of older individuals served by the agency;

(B) be established and administered in consultation with an appropriate gerontology center;

(C) be designed to improve the health and nutrition of older individuals through increasing their physical fitness activities and improving the nutritional value of meals in their own daily living habits;

(D) if appropriate, be conducted in conjunction with schools of public health, schools of medicine, public health and social service agencies, private voluntary organizations, or other entities concerned with the health and well-being of older individuals; and

(E) be evaluated and the evaluation shall be submitted prior to October 1, 1987, together with such interim reports as the Commissioner may reasonably require.

**(g) Neither a State, nor a State agency, may require any provider of legal assistance under this title to reveal any information that is protected by the attorney-client privilege.**

(42 U.S.C. 3027) As added October 18, 1978, P.L. 95–478, sec. 103(b), 92 Stat. 1524; amended December 29, 1981, P.L. 97–115, secs. 3(d), 7, 95 Stat. 1597, 1598–1599; amended October 9, 1954, P.L. 98–459, sec. 307, 98 Stat. 1775; amended November

29, 1987, P.L. 100–175, secs. 128, 129, 130(b), 131(b), 132(c), 136(c), 137(b), 138, 140(c), 141(c), 142, 144(d), 155(e)(2), and 182(k), 101 Stat. 934, 935, 939, 940, 943, 944, 946, 947, 949, 953, 965; amended November 7, 1988, P.L. 100–628, sec. 705, 102 Stat. 3247.

### PLANNING, COORDINATION, EVALUATION, AND ADMINISTRATION OF STATE PLANS

SEC. 308. (a)(1) Amounts available to States under subsection (b)(1) may be used to make grants to States for paying such percentages as each State agency determines, but not more than 75 percent, of the cost of the administration of its State plan, including the preparation of the State plan, the evaluation of activities carried out under such plan, the collection of data and the carrying out of analyses related to the need for supportive services, nutrition services, and multipurpose senior centers within the State, and dissemination of information so obtained, the provision of short-term training to personnel of public or nonprofit private agencies and organizations engaged in the operation of programs authorized by this Act, and the carrying out of demonstration projects of statewide significance relating to the initiation, expansion, or improvement of services assisted under this title.

(2) Any sums available to a State under subsection (b)(1) for part of the cost of the administration of its State plan which the State determines is not needed for such purposes may be used by the State to supplement the amount available under section 304(d)(1)(A) to cover part of the cost of the administration of area plans.

(3) Any State which has designated a single planning and service area under section 305(a)(1)(E) covering all, or substantially all, of the older individuals in such State, as determined by the Commissioner, may elect to pay part of the costs of the administration of State and area plans either out of sums received under this section or out of sums made available for the administration of area plans under section 304(d)(1)(A), but shall not pay such costs out of sums received or allotted under both such sections.

(b)(1) If for any fiscal year the aggregate amount appropriated under section 303 does not exceed $800,000,000, then—

(A) except as provided in clause (ii), the greater of 5 percent of the allotment to a State under section 304(a)(1) or $300,000; and

(B) in the case of Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands, the greater of 5 percent of such allotment or $75,000;

shall be available to such State to carry out the purposes of this section.

(2) If for any fiscal year the aggregate amount appropriated under section 303 exceeds $800,000,000, then—

(A) except as provided in clause (ii), the greater of 5 percent of the allotment to a State under section 304(a)(1) or $500,000; and

(B) in the case of Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands, the greater of 5 percent of such allotment or $100,000;

shall be available to such State to carry out the purposes of this section.

(3)(A) If the aggregate amount appropriated under section 303 for a fiscal year does not exceed $800,000,000, then any State which desires to receive amounts, in addition to amounts allotted to such State under paragraph (1), to be used in the administration of its State plan in accordance with subsection (a) may transmit an application to the Commissioner in accordance with this paragraph. Any such application shall be transmitted in such form, and according to such procedures, as the Commissioner may require, except that such application may not be made as part of, or as an amendment to, the State plan.

(B) The Commissioner may approve any application transmitted by a State under subparagraph (A) if the Commissioner determines, based upon a particularized showing of need that—

(i) the State will be unable to fully and effectively administer its State plan and to carry out programs and projects authorized by this title unless such additional amounts are made available by the Commissioner;

(ii) the State is making full and effective use of its allotment under paragraph (1) and of the personnel of the State agency and area agencies designated under section 305(a)(2)(A) in the administration of its State plan in accordance with subsection (a); and

(iii) the State agency and area agencies of such State designated under section 305 are carrying out, on a full-time basis, programs and activities which are in furtherance of the purposes of this Act.

(C) The Commissioner may approve that portion of the amount requested by a State in its application under subparagraph (A) which the Commissioner determines has been justified in such application.

(D) Amounts which any State may receive in any fiscal year under this paragraph may not exceed three-fourths of 1 percent of the sum of the amounts allotted under section 304(a) to such State to carry out the State plan for such fiscal year.

(E) No application by a State under subparagraph (A) shall be approved unless it contains assurances that no amounts received by the State under this paragraph will be used to hire any individual to fill a job opening created by the action of the State in laying off or terminating the employment of any regular employee not supported under this Act in anticipation of filling the vacancy so created by hiring an employee to be supported through use of amounts received under this paragraph.

(4) Notwithstanding any other provision of this title, with respect to funds received under section 303(b) (1) and (2), a State may elect in its plan under section 307(a)(13) regarding part C of this title, to transfer a portion of the funds appropriated between subpart 1 and subpart 2 of part C, for use as the State considers appropriate to meet the needs of the area served. The Commissioner shall approve any such transfer unless the Commissioner determines that such transfer is not consistent with the purposes of this Act.

(5)(A) Notwithstanding any other provisions of this title and except as provided in subparagraph (B), with respect to funds received under subsection (a)(1) and subsection (b) of section 303, a State may elect to transfer not more than 20 per centum of the funds allotted for any fiscal year between programs under part B and part C of this title, for use as the State considers appropriate. The State shall notify the Commissioner of any such election.

(B) Of the funds received under subsections (a)(1) and (b) of section 303, a State may elect to transfer under subparagraph (A) not more than 30 percent of the funds allotted for any fiscal year.

(c) The amounts of any State's allotment under subsection (b) for any fiscal year which the Commissioner determines will not be required for that year for the purposes described in subsection (a)(1) shall be available to provide services under part B or part C, or both, in the State.

(42 U.S.C. 3028) As added October 18, 1978, P.L. 95-478, sec. 103(b), 92 Stat. 1530; amended December 29, 1981, P.L. 97-115, secs. 3(d), 8, 95 Stat. 1597, 1600; amended October 9, 1984, P.L. 98-459, sec. 308, 98 Stat. 1777; amended November 29, 1987, P.L. 100-175, secs. 129(c)(2) and 181(l), 101 Stat. 935, 966.

### PAYMENTS

SEC. 309. (a) Payments of grants or contracts under this title may be made (after necessary adjustments resulting from previously made overpayments or underpayments) in advance or by way of reimbursement, and in such installments, as the Commissioner may determine. From a State's allotment for a fiscal year which is available under section 308 the Commissioner may pay to a State which does not have a State plan approved under section 307 such amounts as the Commissioner deems appropriate for the purpose of assisting such State in developing a State plan.

(b)(1) For each fiscal year, not less than 25 percent of the non-Federal share of the total expenditures under the State plan which is required by section 304(d) shall be met from funds from State or local public sources.

(2) Funds required to meet the non-Federal share required by section 304(d)(1)(D), in amounts exceeding the non-Federal share required prior to fiscal year 1981, shall be from State sources.

(c) A State's allotment under section 304 for a fiscal year shall be reduced by the percentage (if any) by which its expenditures for such year from State sources under its State plan approved under section 307 are less than its average annual expenditures from such sources for the period of 3 fiscal years preceding such year.

(42 U.S.C. 3029) As added October 18, 1978, P.L. 95-478, sec. 103(b), 92 Stat. 1532; amended October 9, 1984, P.L. 98-459, sec. 309, 98 Stat. 1779; amended November 29, 1987, P.L. 100-175, sec. 139, 101 Stat. 944.

### DISASTER RELIEF REIMBURSEMENTS

SEC. 310. (a)(1) The Commissioner may provide reimbursements to any State, upon application for such reimbursement, for funds such State makes available to area agencies in such State for the delivery of supportive services during any major disaster declared by the President in accordance with the Disaster Relief and Emergency Assistance Act.[1]

(2) Total payments to all States under paragraph (1) in any fiscal year shall not exceed 5 percent of the total amount appropriated and available for carrying out the purposes of section 422.

(b)(1) At the beginning of each fiscal year the Commissioner shall set aside, for payment to States under subsection (a), an amount equal to 5 percent of the total amount appropriated and available for carrying out the purposes of section 422.

(2) Amounts set aside under paragraph (1) which are not obligated by the end of the third quarter of any fiscal year shall be made available for carrying out the purposes of section 422.

(c) Nothing in this section shall be construed to prohibit expenditures by States for disaster relief for older individuals in excess of amounts reimbursable under this section, by using funds made available to them under other sections of this Act or under other provisions of Federal or State law, or from private sources.

(42 U.S.C. 3030) As added October 18, 1978, P.L. 95-478, sec. 103(b), 92 Stat. 1533; amended December 29, 1981, P.L. 97-115, secs. 3(d), 11(b), 95 Stat. 1597, 1606; amended November 23, 1988, P.L. 100-707, sec. 109(g), 102 Stat. 4079.

### AVAILABILITY OF SURPLUS COMMODITIES

SEC. 311. (a)(1) Agricultural commodities and products purchased by the Secretary of Agriculture under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), shall be donated to a recipient of a grant or contract to be used for providing nutrition services in accordance with the provisions of this title.

(2) The Commodities Credit Corporation shall dispose of food commodities under section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431) by donating them to a recipient of a grant or contract to be used for providing nutrition services in accordance with the provisions of this title.

(3) Dairy products purchased by the Secretary of Agriculture under section 709 of the Food and Agriculture Act of 1965 (7 U.S.C. 1446a-1) shall be used to meet the requirements of programs providing nutrition services in accordance with the provisions of this title.

(4) Subject to the authorization of appropriations specified in subsection (c), in donating commodities under this subsection, the Secretary of Agriculture shall maintain an annually programmed level of assistance of not less than 56.76 cents per meal during fiscal years 1986 through 1991. Among the commodities delivered under this subsection, the Secretary shall give special emphasis to high protein foods, meat, and meat alternates. The Secretary of Agriculture, in consultation with the Commissioner, is authorized to prescribe the terms and conditions respecting the donating of commodities under this subsection.

(b)(1) Notwithstanding any other provision of law, a State may, for purposes of the programs authorized by this Act, elect to receive cash payments in lieu of donated foods for all or any portion of its project. In any case in which a State makes such an election, the Secretary of Agriculture shall make cash payments to such State in an amount equivalent in value to the donated foods which the State otherwise would have received if such State had retained its commodity distribution.

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[1] Section 109(d) of the Disaster Relief and Emergency Assistance Amendments of 1988, Public Law 100-707, 102 Stat. 4708, amended this paragraph by striking "Act of 1974" and inserting "and Emergency Assistance Act". In light of section 102(a) of Public Law 100-707, probably should read "Robert T. Stafford Disaster Relief and Emergency Assistance Act".

(2) When such payments are made, the State agency shall promptly and equitably disburse any cash it receives in lieu of commodities to recipients of grants or contracts. Such disbursements shall only be used by such recipients of grants or contracts to purchase United States agricultural commodities and other foods for their nutrition projects.

(3) Nothing in this subsection shall be construed to authorize the Secretary of Agriculture to require any State to elect to receive cash payments under this subsection.

(c)(1)(A) There are authorized to be appropriated $151,000,000 for the fiscal year 1988, $166,000,000 for the fiscal year 1989, $183,000,000 for the fiscal year 1990, and $201,000,000 for the fiscal year 1991, to carry out the provisions of this section (other than subsection (a)(1)).

(B) Effective on the first day of the first month beginning after the date of enactment of the Older Americans Act Amendments of 1984, no State may receive reimbursement under the provisions of this section unless the State submits final reimbursement claims for meals within 90 days after the last day of the quarter for which the reimbursement is claimed.

(2) In any fiscal year in which compliance with subsection (a)(4) of this section costs more than the amounts authorized under paragraph (1) of this subsection for that fiscal year the Secretary of Agriculture shall reduce the cents per meal level determined pursuant to subsection (a)(4) for that fiscal year as necessary to meet the authorization of appropriations for that fiscal year.

(d) In each fiscal year, the Secretary of Agriculture and the Secretary of Health and Human Services shall jointly disseminate to State agencies, area agencies on aging, and providers of nutrition services assisted under this title, information concerning—

(1) the existence of any Federal commodity processing program in which such State agencies, area agencies, and providers may be eligible to participate; and

(2) the procedures to be followed to participate in the program.

(42 U.S.C. 3030a) As added October 18, 1978, P.L. 95-478, sec. 103(b), 92 Stat. 1533; amended December 29, 1981, P.L. 97-115, sec. 9, 95 Stat. 1600; amended October 9, 1984, P.L. 98-459, sec. 310, 98 Stat. 1779; amended April 1, 1986, P.L. 99-269, sec. 2-4, 100 Stat. 78; amended November 29, 1987, P.L. 100-175, sec. 122(c), 101 Stat. 933.

### MULTIPURPOSE SENIOR CENTERS: RECAPTURE OF PAYMENTS

SEC. 312. If, within 10 years after acquisition, or within 20 years after the completion of construction, of any facility for which funds have been paid under this title—

(1) the owner of the facility ceases to be a public or nonprofit private agency or organization; or

(2) the facility ceases to be used for the purposes for which it was acquired (unless the Commissioner determines, in accordance with regulations, that there is good cause for releasing the applicant or other owner from the obligation to do so);

the United States shall be entitled to recover from the applicant or other owner of the facility an amount which bears to the then value of the facility (or so much thereof as constituted an approved project or projects) the same ratio as the amount of such Federal funds bore to the cost of the facility financed with the aid of such funds. Such value shall be determined by agreement of the parties or by action brought in the United States district court for the district in which such facility is situated.

(42 U.S.C. 3030b) As added October 18, 1978, P.L. 95-478, sec. 103(b), 92 Stat. 1534.

### AUDIT

SEC. 313. (a) The Commissioner and the Comptroller General of the United States or any of their duly authorized representatives shall have access for the purpose of audit and examination to any books, documents, papers, and records that are pertinent to a grant or contract received under this title.

(b) State agencies and area agencies on aging shall not request information or data from providers which is not pertinent to services furnished pursuant to this Act or a payment made for such services.

(42 U.S.C. 3030c) As added October 18, 1978, P.L. 95-478, sec. 103(b), 92 Stat. 1535; amended October 9, 1984, P.L. 98-459, sec. 311, 98 Stat. 1779.

## PART B—SUPPORTIVE SERVICES AND SENIOR CENTERS

### PROGRAM AUTHORIZED

SEC. 321. (a) The Commissioner shall carry out a program for making grants to States under State plans approved under section 307 for any of the following supportive services:

(1) health (including mental health), education and training, welfare, informational, recreational, homemaker, counseling, or referral services;

(2) transportation services to facilitate access to supportive services or nutrition services, or both;

(3) services designed to encourage and assist older individuals to use the facilities and services available to them;

(4) services designed (A) to assist older individuals to obtain adequate housing, including residential repair and renovation projects designed to enable older individuals to maintain their homes in conformity with minimum housing standards; (B) to adapt homes to meet the needs of older individuals who have physical disabilities; or (C) to prevent unlawful entry into residences of elderly individuals, through the installation of security devices and through structural modifications or alterations of such residences;

(5) services designed to assist older individuals in avoiding institutionalization and to assist individuals in long-term care institutions who are able to return to their communities, including client assessment through case management and inte-

gration and coordination of community services such as preinstitution evaluation and screening and home health services, homemaker services, shopping services, escort services, reader services, and letter writing services, through resource development and management to assist such individuals to live independently in a home environment;

(6) services designed to provide legal assistance and other counseling services and assistance, including tax counseling and assistance, financial counseling, and counseling regarding appropriate health and life insurance coverage, to older individuals;

(7) services designed to enable older individuals to attain and maintain physical and mental well-being through programs of regular physical activity and exercise;

(8) services designed to provide health screening to detect or prevent illnesses, or both, that occur most frequently in older individuals;

(9) services designed to provide preretirement and second career counseling for older individuals;

(10) services of an ombudsman at the State level to receive, investigate, and act on complaints by older individuals who are residents of long-term care facilities and to advocate for the well-being of such individuals;

(11) services which are designed to meet the unique needs of older individuals who are disabled;

(12) services to encourage the employment of older workers, including job counseling and, where appropriate, job development, referral, and placement;

(13) crime prevention services and victim assistance programs for older individuals;

(14) a program, to be known as "Senior Opportunities and Services", designed to identify and meet the needs of older, poor individuals 60 years of age or older in one or more of the following areas: (A) development and provision of new volunteer services; (B) effective referral to existing health, employment, housing, legal, consumer, transportation, and other services; (C) stimulation and creation of additional services and programs to remedy gaps and deficiencies in presently existing services and programs; and (D) such other services as the Commissioner may determine are necessary or especially appropriate to meet the needs of the older poor and to assure them greater self-sufficiency;

(15) services for the prevention of abuse of older individuals in accordance with clause (16) of section 307(a);

(16) inservice training and State leadership for legal assistance activities;

(17) health and nutrition education services;

(18) services designed to enable mentally impaired older individuals to attain and maintain emotional well-being and independent living through a coordinated system of support services; or

(19) any other services;

if such services meet standards prescribed by the Commissioner and are necessary for the general welfare of older individuals. For purposes of paragraph (5), the term "client assessment through case management" includes providing information relating to assistive technology.

(b)(1) The Commissioner shall carry out a program for making grants to States under State plans approved under section 307 for the acquisition, alteration, or renovation of existing facilities, including mobile units, and, where appropriate, construction of facilities to serve as multipurpose senior centers.

(2) Funds made available to a State under this part may be used for the purpose of assisting in the operation of multipurpose senior centers and meeting all or part of the costs of compensating professional and technical personnel required for the operation of multipurpose senior centers.

(42 U.S.C. 3030d) As added October 18, 1978, P.L. 95-478, sec. 103(b), 92 Stat. 1535; amended December 29, 1981, P.L. 97-115, secs. 3(d), 10(a)-10(c), 95 Stat. 1597, 1600-1601; amended October 9, 1984, P.L. 98-459, sec. 312, 98 Stat. 1779; amended November 29, 1987, P.L. 100-175, secs. 136(d), 146(b), and 182(m), 101 Stat. 943, 950. 967.

## PART C—NUTRITION SERVICE

## Subpart 1—Congregate Nutrition Services

### PROGRAM AUTHORIZED

SEC. 331. The Commissioner shall carry out a program for making grants to States under State plans approved under section 307 for the establishment and operation of nutrition projects—

(1) which, 5 or more days a week, provide at least one hot or other appropriate meal per day and any additional meals which the recipient of a grant or contract under this subpart may elect to provide, each of which assures a minimum of one-third of the daily recommended dietary allowances as established by the Food and Nutrition Board of the National Academy of Sciences-National Research Council;

(2) which shall be provided in congregate settings; and

(3) which may include nutrition education services and other appropriate nutrition services for older individuals.

(42 U.S.C. 3030e) As added October 18, 1978, P.L. 95-478, sec. 103(b), 92 Stat. 1536.

## Subpart 2—Home Delivered Nutrition Services

### PROGRAM AUTHORIZED

SEC. 336. The Commissioner shall carry out a program for making grants to States under State plans approved under section 307 for the establishment and operation of nutrition projects for older individuals which, 5 or more days a week, provide at least one home delivered hot, cold, frozen, dried, canned, or supplemental foods (with a satisfactory storage life) meal per day and any additional meals which the recipient of a grant or contract under this subpart may elect to provide, each of which assures a minimum of one-third of the daily recommended dietary allowances as established by the Food and Nutrition Board of the National Academy of Sciences-National Research Council.

(42 U.S.C. 3030f) As added October 18, 1978, P.L. 95-478, sec. 103(b), 92 Stat. 1536.

### CRITERIA

SEC. 337. The Commissioner, in consultation with organizations of and for the aged, blind, and disabled, and with representatives from the American Dietetic Association, the National Association of Area Agencies on Aging, the National Association of Nutrition and Aging Services Programs, the National Association of Meals Programs, Incorporated, and any other appropriate group, shall develop minimum criteria of efficiency and quality for the furnishing of home delivered meal services for projects described in section 336. The criteria required by this section shall take into account the ability of established home delivered meals programs to continue such services without major alteration in the furnishing of such services.

(42 U.S.C. 3030g) As added October 18, 1978, P.L. 95–478, sec. 103(b), 92 Stat. 1536; amended December 29, 1981, P.L. 97–115, sec. 10(e), 95 Stat. 1601; amended November 29, 1987, P.L. 100–175, sec. 182(n), 101 Stat. 967.

## PART D—IN-HOME SERVICES FOR FRAIL OLDER INDIVIDUALS

### PROGRAM AUTHORIZED

SEC. 341. (a) The Commissioner shall carry out a program for making grants to States under State plans approved under section 307 to provide in-home services to frail older individuals, including in-home supportive services for older individuals who are victims of Alzheimer's disease and related disorders with neurological and organic brain dysfunction, and to the families of such victims.

(b) In carrying out the provisions of this part, each area agency shall coordinate with other community agencies and voluntary organizations providing counseling and training for family caregivers and support service personnel in management of care, functional and needs assessment services, assistance with locating, arranging for, and coordinating services, case management, and counseling prior to admission to nursing home to prevent premature institutionalization.

(42 U.S.C. 3030h) As added November 29, 1987, P.L. 100–175, sec. 139(d), 101 Stat. 945.

### DEFINITIONS

SEC. 342. For purposes of this part—

(1) the term "in-home services" includes—

(A) homemaker and home health aides;

(B) visiting and telephone reassurance;

(C) chore maintenance;

(D) in-home respite care for families, and adult day care as a respite service for families; and

(E) minor modification of homes that is necessary to facilitate the ability of older individuals to remain at home and that is not available under other programs, except that not more than $150 per client may be expended under this part for such modification; and

(2) the term "frail" means having a physical or mental disability, including having Alzheimer's disease or a related disorder with neurological or organic brain dysfunction, that restricts the ability of an individual to perform normal daily tasks or which threatens the capacity of an individual to live independently.

(42 U.S.C. 3030i) As added November 29, 1987, P.L. 100-175, sec. 139(d), 101 Stat. 945.

### STATE CRITERIA

SEC. 343. The State agency shall develop eligibility criteria for providing in-home services to frail older individuals which shall take into account—

(1) age;

(2) greatest economic need;

(3) noneconomic factors contributing to the frail condition; and

(4) noneconomic and nonhealth factors contributing to the need for such services.

(42 U.S.C. 3030j) As added November 29, 1987, P.L. 100-175, sec. 139(d), 101 Stat. 945.

### MAINTENANCE OF EFFORT

SEC. 344. Funds made available under this part shall be in addition to, and may not be used to supplant, any funds that are or would otherwise be expended under any Federal, State, or local law by a State or unit of general purpose local government (including area agencies on aging which have in their planning and services areas existing services which primarily serve older individuals who are victims of Alzheimer's disease and related disorders with neurological and organic brain dysfunction, and the families of such victims).

(42 U.S.C. 3030k) As added November 29, 1987, P.L. 100-175, sec. 139(d), 101 Stat. 946.

## PART E—ADDITIONAL ASSISTANCE FOR SPECIAL NEEDS OF OLDER INDIVIDUALS

### PROGRAM AUTHORIZED

SEC. 351. The Commissioner shall carry out a program for making grants to States under State plans approved under section 307 to provide services, consistent with the purpose of this title, designed to satisfy special needs of older individuals. Such services include—

(1) transportation associated with services provided under this title;

(2) outreach regarding such services;

(3) targeting such services to older individuals with greatest economic need or greatest social need;

(4) services under the ombudsman program established under section 307(a)(12); and

(5) any other service under this title—

(A) for which the State demonstrates to satisfaction of the Commissioner that there is unmet need; and

(B) which is appropriate to improve the quality of life of older individuals, particularly those with greatest economic need and those with greatest social need.

(42 U.S.C. 3030l) As added November 29, 1987, P.L. 100–175, sec. 141(d), 101 Stat. 946.

## PART F—PREVENTIVE HEALTH SERVICES

### PROGRAM AUTHORIZED

SEC. 361. (a) The Commissioner shall carry out a program for making grants to States under State plans approved under section 307 for periodic preventive health services to be provided at senior centers or alternative sites as appropriate.

(b) Preventive health services under this part may not include services eligible for reimbursement under Medicare.

(c) The Commissioner shall, to the extent possible, assure that services provided by other community organizations and agencies are used to carry out the provisions of this part.

(42 U.S.C. 3030m) As added November 29, 1987, P.L. 100–175, sec. 143(c), 101 Stat. 947.

### DISTRIBUTION TO AREA AGENCIES

SEC. 362. The State agency shall give priority, in carrying out this part, to areas of the State—

(1) which are medically underserved; and

(2) in which there are a large number of older individuals who have the greatest economic need for such services.

(42 U.S.C. 3030n) As added November 29, 1987, P.L. 100–175, sec. 143(c), 101 Stat. 948.

### DEFINITIONS

SEC. 363. For the purpose of this part and section 307 the term "preventive health services" means—

(1) routine health screening, which may include hypertension, glaucoma, cholesterol, cancer, vision and hearing screening;

(2) group exercise programs;

(3) home injury control services, including screening of high-risk home environments and educational programs on injury protection in the home environment;

(4) nutritional counseling and educational services;

(5) screening for the prevention of depression, coordination of community mental health services, educational activities, and referral to psychiatric and psychological services;

(6) educational programs on the benefits and limitations of Medicare and various supplemental insurance coverage, including individual policy screening and health insurance-needs counseling; and

(7) counseling regarding followup health services based on any of the services provided for above.

(42 U.S.C. 3030o) As added November 29, 1987, P.L. 100-175, sec. 143(c), 101 Stat. 948.

## PART G—PREVENTION OF ABUSE, NEGLECT, AND EXPLOITATION OF OLDER INDIVIDUALS

### PROGRAM AUTHORIZED

SEC. 371. The Commissioner shall carry out a program for making grants to States under State plans approved under section 307 to carry out a program with respect to the prevention of abuse, neglect, and exploitation of older individuals. The program shall—

(1) be consistent with relevant State law and coordinated with State adult protective service activities and other State and local elder abuse prevention and protection;

(2) provide for—

(A) public education and outreach services to identify and prevent abuse, neglect, and exploitation of older individuals;

(B) receipt of reports of such abuse, neglect, and exploitation;

(C) active participation of older individuals participating in programs under this Act through outreach, conferences, and referral of such individuals to other social service agencies or sources of assistance if appropriate and with the consent of the older individuals to be referred; and

(D) the referral of complaints and other reports of abuse, neglect, or exploitation of older individuals to law enforcement agencies, public protective service agencies, licensing and certification agencies, ombudsman programs, or protection and advocacy system if appropriate;

(3) not permit involuntary or coerced participation in such program by alleged victims, abusers, or their households; and

(4) require that all information gathered in the course of receiving such a complaint or report, and making such a referral, shall remain confidential unless—

(A) all parties to such complaint or report consent in writing to the release of such information; or

(B) the release of such information is to a law enforcement agency, public protective service agency, licensing or certification agency, ombudsman program, or protection or advocacy system.

(42 U.S.C. 3030p) As added November 29, 1987, P.L. 100-175, sec. 143(c), 101 Stat. 949.

## TITLE IV—TRAINING, RESEARCH, AND DISCRETIONARY PROJECTS AND PROGRAMS

### STATEMENT OF PURPOSE

SEC. 401. It is the purpose of this title to expand the Nation's knowledge and understanding of aging and the aging process, to design and test innovative ideas in programs and services for older individuals, and to help meet the needs for trained personnel in the field of aging through—

(1) placing a priority on the education and training of personnel to work with and on behalf of older individuals, with special emphasis on minority individuals, low-income individuals, frail individuals, and individuals with disabilities;

(2) research and development of effective practices in the field of aging;

(3) demonstration projects directly related to the field of aging; and

(4) dissemination of information on aging and the aging process acquired through such programs to public and private organizations or programs for older individuals.

(42 U.S.C. 3030aa) as added October 9, 1984, P.L. 98-459, sec. 401, 98 Stat. 1781; amended November 29, 1987, P.L. 100-175, sec. 151, 101 Stat. 951.

### ADMINISTRATION

Sec. 402. (a) In order to carry out the provisions of this title effectively, the Commissioner shall administer this title through the Administration on Aging.

(b) In carrying out the provisions of this title, the Commissioner may request the technical assistance and cooperation of the Department of Education, the National Institutes of Health, the Veterans' Administration, Alcohol, Drug Abuse, and Mental Health Administration, and such other agencies and departments of the Federal Government as may be appropriate.

(c) The Commissioner shall ensure that grants and contracts under this title are equitably awarded to agencies, organizations, and institutions representing minorities.

(42 U.S.C. 3030bb) As added October 9, 1984, P.L. 98-459, sec. 401, 98 Stat. 1781; amended November 29, 1987, P.L. 100-175, secs. 105(d) and 134(c), 101 Stat. 930, 941.

## Part A—Education and Training

### PURPOSE

Sec. 410. The purpose of this part is to improve the quality of service and to help meet critical shortages of adequately trained personnel for programs in the field of aging by—

(1) identifying both short- and long-range manpower needs in the field of aging;

(2) providing a broad range of educational and training opportunities to meet those needs;

(3) attracting a greater number of qualified personnel into the field of aging;

(4) helping to upgrade personnel training programs to make them more responsive to the need in the field of aging; and

(5) establishing and supporting multidisciplinary centers of gerontology (including centers of gerontology to improve, enhance, and expand minority personnel and training programs) and providing special emphasis that will improve, enhance, and expand existing training programs.

(42 U.S.C. 3030jj) As added October 9, 1984, P.L. 98-459, sec. 402, 98 Stat. 1781; amended November 29, 1987, P.L. 100-175, sec. 134(c)(2), 101 Stat. 941.

### GRANTS AND CONTRACTS

SEC. 411. (a) The Commissioner shall make grants and enter into contracts to achieve the purpose of this part. The purposes for which such grants and contracts shall be made include the following:

(1) To provide comprehensive and coordinated nondegree education, training programs, and curricula at institutions of higher education and at other research, training, or educational organizations, for practitioners in the fields of nutrition, health (including mental health) care, supportive services, housing, and long-term care, including the expansion and enhancement of existing inservice education and training programs.

(2) To provide inservice training opportunities to the personnel of State offices, area agencies, senior centers, and nutrition programs to strengthen their capacity to remain responsive to the needs of older individuals.

(3) To provide courses on aging and the dissemination of information about aging to the public through institutions of higher education and other public and nonprofit private organizations and agencies.

(4) To provide in-service training opportunities and courses of instruction on aging to Indian tribes through public and nonprofit Indian aging organizations.

(b) To achieve the purpose of this title, the Administration on Aging shall conduct both—

(1) long-term educational activities to prepare personnel for careers in the field of aging; and

(2) short-term inservice training and continuing education activities for State and area agency personnel, and other personnel, in the field of aging or preparing to enter the field of aging.

(c) In making grants and contracts under this part, the Commissioner shall give special consideration to the recruitment and training of personnel, volunteers, and those individuals preparing for employment in that part of the field of aging which relates to providing services to individuals with disabilities and to individuals with Alzheimer's disease and related disorders with neurological and organic brain dysfunction and providing family respite services with respect to such individuals.

(d) In making grants or contracts under this part, the Commissioner shall ensure that all projects and activities related to personnel training shall include specific data on the number of individuals to be trained and the number of older individuals to be served through such training activities by public and nonprofit agencies, State and area agencies on aging, institutions of higher education, and other organizations.

(42 U.S.C. 3031) As added December 29, 1981, P.L. 97-115, sec. 11(a), 95 Stat. 1601; amended October 9, 1984, P.L. 98-459, sec. 403, 98 Stat. 1781; amended November 29, 1987, Pub. L. 100-175, secs. 105(e), 134(c)(3), and 156(a), 101 Stat. 930, 941, 954; amended November 7, 1988, P.L. 100-628, sec. 705, 102 Stat. 3247.

### MULTIDISCIPLINARY CENTERS OF GERONTOLOGY

SEC. 412. (a) The Commissioner may make grants to public and private nonprofit agencies, organizations, and institutions for the purpose of establishing or supporting multidisciplinary centers of gerontology, and gerontology centers of special emphasis (including emphasis on nutrition, employment, health (including mental health), disabilities (including severe disabilities), income maintenance, supportive services and minority populations). Such centers shall conduct research and policy analysis and function as a technical resource for the Commissioner, policymakers, service providers, and the Congress. Multidisciplinary centers of gerontology shall—

(1) recruit and train personnel;

(2) conduct basic and applied research toward the development of information related to aging;

(3) stimulate the incorporation of information on aging into the teaching of biological, behavioral, and social sciences at colleges and universities;

(4) help to develop training programs in the field of aging at schools of public health, education, and other appropriate schools within colleges and universities;

(5) serve as a repository of information and knowledge on aging;

(6) provide consultation and information to public and voluntary organizations, including State and area agencies, which serve the needs of older individuals in planning and developing services provided under other provisions of this Act; and

(7) if appropriate, provide information relating to assistive technology.

(b) Centers supported under this section shall provide data to the Commissioner on the projects and activities for which funds are provided under this title. Such data shall include the number of personnel trained, the number of older individuals served, the number of schools assisted, and other information that will facilitate achieving the purposes of this Act.

(42 U.S.C. 3032) As added December 29, 1981, P.L. 97-115, sec. 11(a), 95 Stat. 1601; amended October 9, 1984, P.L. 98-459, sec. 404, 98 Stat. 1782; amended November 29, 1987, Pub. L. 100-175, secs. 105(e)(2), 134(c)(4), 146(c), and 156(b), 101 Stat. 930, 941, 950, 954.

## PART B—RESEARCH, DEMONSTRATIONS, AND OTHER ACTIVITIES

### PURPOSE

SEC. 420. The purpose of this part is to improve the quality and efficiency of programs serving older individuals through research and development projects, and demonstration projects, designed to—

(1) develop and synthesize knowledge about aging from multidisciplinary perspectives;

(2) establish an information base of data and practical experience;

(3) examine effective models of planning and practice that will improve or enhance services provided under other provisions of this Act;

(4) evaluate the efficacy, quality, efficiency, and accessibility of programs and services for older individuals; and

(5) develop, implement, and evaluate innovative planning and practice strategies to address the needs, concerns, and capabilities of older individuals.

(42 U.S.C. 3034) As added October 9, 1984, P.L. 98-459, sec. 405, 98 Stat. 1783.

### RESEARCH AND DEVELOPMENT PROJECTS

SEC. 421. (a) The Commissioner may make grants to any public or nonprofit private agency, organization, or institution, and may enter into contracts with any agency, organization, institution, or individual to support research and development related to the purposes of this Act, evaluation of the results of such research and development activities, and collection and dissemination of information concerning research findings, demonstration results, and other materials developed in connection with activities assisted under this title, and conducting of conferences and other meetings for purposes of exchange of information and other activities related to the purposes of this title. Appropriate provisions for the dissemination of resulting information shall be a requirement for all grants made under this section.

(b) Each research and development activity proposal for which funds are requested under subsection (a) shall include a concise policy or practical application statement.

(c)(1) The Commissioner shall select, to the extent practicable, for assistance under subsection (a) research activities which will, not later than three years after the date of the enactment of the Older Americans Act Amendments of 1984, collectively—

(A) contribute to the establishment and maintenance of a demographic data base which contains information on the population of older individuals generally and older individuals categorized by age, sex, race, geographical location, and such other factors as the Commissioner deems useful for the purpose of formulating public policy;

(B) identify the future needs of older individuals;

(C) identify the kinds and comprehensiveness of programs required to satisfy such needs; and

(D) identify the kinds and number of personnel required to carry out such programs.

(2) The Commissioner shall select, to the extent practicable, for assistance under subsection (a) demonstration projects which test research results and implement innovative ways of satisfying the needs of, and delivering services to, older individuals.

(42 U.S.C. 3035) As added December 29, 1981, P.L. 97-115, sec. 11(a), 95 Stat. 1601-1602; amended October 9, 1984, P.L. 98-459, sec. 406, 98 Stat. 1783.

### DEMONSTRATION PROJECTS

SEC. 422. (a)(1) The Commissioner may, after consultation with the State agency in the State involved, make grants to any public agency or nonprofit private organization or enter into contracts with any agency or organization within such State for paying part or all of the cost of developing or operating nationwide, statewide, regional, metropolitan area, county, city, or community model projects which will demonstrate methods to improve or expand supportive services or nutrition services or otherwise promote the well-being of older individuals. The Commissioner shall give special consideration to the funding of rural area agencies on aging to conduct model projects devoted to the special needs of the rural elderly. Such projects shall include alternative health care delivery systems, advocacy and outreach programs, and transportation services.

(2) The Commissioner may, after consultation with the State agency in the State involved, make grants to or enter into contracts with public or private institutions of higher education having graduate programs with capability in public health, the medical sciences, psychology, pharmacology, nursing, social work, health education, nutrition, or gerontology, for the purpose of designing and developing prototype health education and promotion programs for the use of State and area agencies on aging in implementing preventive health service programs.

(b) In making grants and contracts under subsection (a)(1), the Commissioner shall give special consideration to projects designed to—

(1) meet the supportive services needs of elderly victims of Alzheimer's disease and related disorders with neurological and organic brain dysfunction and their families, including—

(A) home health care for such victims;

(B) adult day health care for such victims; and

(C) homemaker aides, transportation, and in-home respite care for the families, particularly spouses, of such victims;

(2) meet the special health care needs of the elderly, including—

(A) the location of older individuals who are in need of mental health services;

(B) the provision of, or arrangement for the provision of, medical differential diagnoses of older individuals to distinguish between their need for mental health services and other medical care;

(C) the specification of the mental health needs of older individuals, and the mental health and support services required to meet such needs;

(D) the provision of—

(i) the mental health and support services specified in subclause (C) in the communities; or

(ii) such services for older individuals in nursing homes and intermediate care facilities, and training of the employees of such homes and facilities in the provision of such services; and

(E) the identification and provision of services to older individuals with severe disabilities;

(3) assist in meeting the special housing needs of older individuals by—

(A) providing financial assistance to such individuals, who own their own homes, necessary to enable them (i) to make the repairs or renovations to their homes, which are necessary for them to meet minimum standards, and (ii) to install security devices, and to make structural modifications or alterations, designed to prevent unlawful entry; and

(B) studying and demonstrating methods of adapting existing housing, or construction of new housing, to meet the needs of older individuals suffering from physical disabilities;

(4) provide education and training to older individuals designed to enable them to lead more productive lives by broadening the education, occupational, cultural, or social awareness of such older individuals;

(5) provide preretirement education information and relevant services (including the training of personnel to carry out such programs and the conduct of research with respect to the development and operation of such programs) to individuals planning retirement;

(6) meet the special needs of, and improve the delivery of services to, older individuals who are not receiving adequate services under other provisions of this Act, with emphasis on the needs of low-income, minority, Indian, and limited English-speaking individuals and the rural elderly;

(7) develop or improve methods of coordinating all available supportive services for the homebound elderly, blind, and disabled by establishing demonstration projects in ten States, in accordance with subsection (c);

(8) improve transportation systems for the rural elderly; and

(9) provide expanded, innovative volunteer opportunities to older individuals which are designed to fulfill unmet community needs, while at the same time avoiding duplication of existing volunteer programs, which may include—

(A) projects furnishing intergenerational services by older individuals addressing the needs of children, such as—

(i) tutorial services in elementary and special schools;

(ii) after school programs for latch key children; [1]

(iii) voluntary services for day care center programs; and

(B) volunteer service credit projects operated in conjunction with the ACTION Agency, permitting elderly volunteers to earn credits for services furnished, which may later be redeemed for similar volunteer services.

(c) The Commissioner shall consult with the Commissioner of the Rehabilitation Services Administration, the Commissioner of the Social Security Administration, and the Surgeon General of the Public Health Service, to develop procedures for—

(1) identifying elderly, blind, and disabled individuals who need supportive services;

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[1] Error in amendment made by section 153(3) of Public Law 100–175. Amendment should be made to insert "and".

(2) compiling a list in each community of all services available to the elderly, blind, and disabled; and

(3) establishing an information and referral service within the appropriate community agency to—

(A) inform those in need of the availability of such services; and

(B) coordinate the delivery of such services to the elderly, blind, and disabled.

The Commissioner shall establish procedures for administering demonstration projects under subsection (b)(6) not later than 6 months after the effective date of this subsection. The Commissioner shall report to the Congress with respect to the results and findings of the demonstration projects conducted under this section at the completion of the projects.

(d)(1) Whenever appropriate, grants made and contracts entered into under this section shall be developed in consultation with an appropriate gerontology center.

(2) Grants made and contracts entered into under this section shall include provisions for the appropriate dissemination of project results.

(42 U.S.C. 3035a) As added December 29, 1981, P.L. 97-115, sec. 11(a), 95 Stat. 1602-1603; amended October 9, 1984, P.L. 98-459, sec. 407, 98 Stat. 1784; amended November 29, 1987, P.L. 100-175, secs. 152, 153, 156(c), and 182(o), 101 Stat. 951, 954, 967; amended November 7, 1988, P.L. 100-628, sec. 705, 102 Stat. 3247.

### SPECIAL PROJECTS IN COMPREHENSIVE LONG-TERM CARE

SEC. 423. (a)(1) The Commissioner shall—

(A) make grants to selected State agencies, designated under section 305(a)(1), and, in consultation with State agencies, selected area agencies on aging designated under section 305(a)(2)(A), institutions of higher education, and other public agencies and nonprofit private organizations; and

(B) enter into contracts with any agency, organization, or institution (except that such contract authority shall be effective for any fiscal year only to such extent, or in such amounts, as are provided in appropriations Acts);

to support the development of comprehensive, coordinated systems of community long-term care for older individuals, with special emphasis upon services designed to support alternatives to institutional living and the assessment of need, the development of a plan of care, and the referral of individuals, in the delivery of long-term care services, including noninstitutional and institutional services, where appropriate.

(2) A grant under this section may be made to pay part or all of the estimated cost of the program (including startup cost) for a period of not more than 3 years, except that no funds may be used to pay for direct services which are eligible for reimbursement under title XVIII, title XIX, or title XX of the Social Security Act.

(3) A grant made under this section shall be used for the development of programs which provide a full continuum of services. Such services may include adult day health care; monitoring and evaluation of service effectiveness; supported living in public and private nonprofit housing; family respite services; preventive health serv-

ices; home health, homemaker, and other rehabilitative and maintenance in-home services; mental health services; services provided by geriatric health maintenance organizations; services to older individuals with severe disabilities residing in nursing homes; and other services which the Commissioner determines are appropriate, and which, at a minimum, provide for identification and assessment of the long-term care needs of older individuals, referral of such individuals to the appropriate services, and follow-up and evaluation of the continued appropriateness of such services with provision for re-referral as appropriate.

(4) The Commissioner shall ensure that grants and contracts under this section are equitably awarded to agencies, organizations, and institutions representing minorities.

(b)(1) In making grants to States under this section, preference shall be given to applicants which demonstrate that—

(A) adequate State standards have been developed to ensure the quality of services provided;

(B) the State has made a commitment to carry out the program assisted under this section with the State agency responsible for the administration of title XIX of the Social Security Act or title XX of the Social Security Act, or both such agencies;

(C) the State will develop plans to finance the comprehensive program assisted under this section; and

(D) the State agency has a plan for statewide or designated regions of the State containing provisions designed to maximize access by older individuals to long-term care services.

(2) In awarding grants to or entering into contracts with agencies and organizations under this section, preference shall be given to applicants that possess the capability to establish community-based long-term care programs and demonstrate that a need exists for the establishment of such programs in the area to be served.

(3)(A) Agencies and organizations assisted under this section shall establish procedures for evaluating the program assisted under this section, with respect to the benefits accruing to persons receiving assistance, the feasibility of the administrative model used for comprehensive coordination of services including coordination with other local programs, and the comparative costs and quality of services provided, and shall submit such evaluation to the Commissioner on a periodic basis.

(B) Grants made and contracts entered into under this section shall include provisions for the appropriate dissemination of information regarding the development of such services.

(c) The Secretary shall involve appropriate Federal departments and agencies in carrying out the provisions of this section in order to assure coordination at the Federal level and to avoid duplication and shall include in the annual report to the Congress required by section 207, a report on the impact of grants made, or contracts entered into, on the experiences of grantees and contractors in meeting the requirements of this section, and on the comparative benefits and costs of projects assisted under this section.

(d) Sums appropriated to carry out this section shall, to the extent feasible, be used to support programs equitably distributed throughout the Nation between urban and rural areas.

(42 U.S.C. 3035b) As added December 29, 1981, P.L. 97-115, sec. 11(a), 95 Stat. 1603-1604; amended October 9, 1984, P.L. 98-459, sec. 408, 98 Stat. 1784; amended November 29, 1987, P.L. 100-175, secs. 105(f), 134(c)(5), 154, and 156(d), 101 Stat. 930, 941, 951, 955.

### SPECIAL DEMONSTRATION AND SUPPORT PROJECTS FOR LEGAL ASSISTANCE FOR OLDER INDIVIDUALS

Sec. 424. (a) The Commissioner shall make grants and enter into contracts, in order to—

(1) provide a national legal assistance support system (operated by one or more grantees or contractors) of activities to State and area agencies on aging for providing, developing, or supporting legal assistance for older individuals, including—

(A) case consultations;

(B) training;

(C) provision of substantive legal advice and assistance; and

(D) assistance in the design, implementation, and administration of legal assistance delivery systems to local providers of legal assistance for older individuals; and

(2) support demonstration projects to expand or improve the delivery of legal assistance to older individuals with social or economic needs.

(b) Any grants or contracts made under subsection (a)(2) shall contain assurances that the requirements of section 307(a)(15) are met.

(c) To carry out subsection (a)(1), the Commissioner shall make grants to or enter into contracts with national nonprofit legal assistance organizations experienced in providing support, on a nationwide basis, to local legal assistance providers.

(42 U.S.C. 3035c) As added December 29, 1981, P.L. 97-115, sec. 11(a), 95 Stat. 1604-1605; amended October 9, 1984, P.L. 98-459, sec. 409, 98 Stat. 1784.

### NATIONAL IMPACT ACTIVITIES

Sec. 425. (a)(1) The Commissioner may carry out directly or through grants or contracts—

(A) innovation and development projects and activities of national significance which show promise of having substantial impact on the expansion or improvement of supportive services, nutrition services, or multipurpose senior centers, or otherwise promoting the well-being of older individuals; and

(B) dissemination of information activities related to such programs.

(2) The Commissioner shall carry out, directly or through grants or contracts, special training programs and technical assistance designed to improve services to minorities.

(b) An amount not to exceed 15 percent of any sums appropriated under section 431 may be used for carrying out this section.

(42 U.S.C. 3035d) As added December 29, 1981, P.L. 97-115, sec. 11(a), 95 Stat. 1605; amended October 9, 1984, P.L. 98-459, sec. 410, 98 Stat. 1785; amended November 29, 1987, P.L. 100-175, sec. 134(c)(6), 101 Stat. 941.

### UTILITY AND HOME HEATING COST DEMONSTRATION PROJECTS

SEC. 426. The Secretary may, after consultation with the appropriate State agency designated under section 305(a)(1), make grants to pay for part or all of the costs of developing model projects which show promise of relieving older individuals of the excessive burdens of high utility service and home heating costs. Any such project shall give special consideration to projects under which a business concern is engaged in providing home heating oil or utility services to low-income older individuals at a cost which is substantially lower than providing home heating oil or utility services to other individuals.

(42 U.S.C. 3035e) As added December 29, 1981, P.L. 97-115, sec. 11(a), 95 Stat. 1605; amended October 9, 1984, P.L. 98-459, sec. 410, 98 Stat. 1785.

### OMBUDSMAN AND ADVOCACY DEMONSTRATION PROJECTS

SEC. 427. (a) The Commissioner is authorized to make grants to not less than three nor more than ten States to demonstrate and evaluate cooperative projects between the State long-term care ombudsman program and the State protection and advocacy systems for developmental disabilities and mental illness, established under part A of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001 et seq.) and under the Protection and Advocacy for Mentally Ill Individuals Act of 1986 (Public Law 99-319).

(b) The Commissioner on Aging shall prepare and submit to the Congress a report of the study and evaluation required by subsection (a). Such report shall contain such recommendations as the Commissioner on Aging deems appropriate.

(42 U.S.C. 3035f) As added November 29, 1987, P.L. 100-175, sec. 156(e), 101 Stat. 955.

### CONSUMER PROTECTION DEMONSTRATION PROJECTS FOR SERVICES PROVIDED IN THE HOME

SEC. 428. (a)(1) The Commissioner is authorized to make grants to not fewer than 6 nor more than 10 States to demonstrate and evaluate the effectiveness of consumer protection projects for services (other than medical services) provided to older individuals in the home that are furnished or assisted with public funds.

(2) Grants made under this section shall be used to test different approaches to protecting older individuals with regard to services in the home. Such projects may provide consumer protection through State and local ombudsmen, legal assistance agencies, and other community service agencies.

(b) No grant may be made under this section unless an application is made to the Commissioner at such time, in such manner, and containing such information as the Commissioner may reasonably require. Each such application shall—

(1) describe activities for which assistance is sought;

(2) provide for an evaluation of the activities for which assistance is sought; and

(3) provide assurances that the applicant will prepare and submit a report to the Commissioner on the activities conducted with assistance under this section and the evaluation of such activities.

(c) In approving applications under this section, the Commissioner shall assure equitable geographic distribution of assistance.

(d) The Commissioner shall, as part of the annual report submitted under section 207, prepare and submit a report on the evaluations submitted under this section, together with such recommendations as the Commissioner deems appropriate. In carrying out this section, the Commissioner shall include in the report—

(1) a description of the demonstration projects assisted under this section;

(2) an evaluation of the effectiveness of each such project; and

(3) recommendations of the Commissioner with respect to the desirability and feasibility of carrying out on a nationwide basis a consumer protection program for services in the home.

(e) Consumer protection projects carried out under this section—

(1) may include, but are not limited to, consumer education, the use of consumer hotlines, receipt and resolution of consumer complaints, and advocacy; and

(2) may not address medical services.

(42 U.S.C. 3035g) As added November 29, 1987, P.L. 100-175, sec. 157(a), 101 Stat. 955.

## Part C—General Provisions

### AUTHORIZATION OF APPROPRIATIONS

Sec. 431. (a)(1) There are authorized to be appropriated to carry out the provisions of this title (other than sections 427 and 428) $32,970,000 for the fiscal year 1988, $34,619,000 for the fiscal year 1989, $36,349,000 for the fiscal year 1990, and $38,167,000 for the fiscal year 1991.

(2) Subject to subsection (b), there is authorized to be appropriated $1,000,000 for fiscal year 1989 to carry out the provisions of section 427. The funds appropriated pursuant to this paragraph shall remain available for expenditure for fiscal year 1990.

(3) Subject to subsection (b), there is authorized to be appropriated $2,000,000 for each of the fiscal years 1989 and 1990 to carry out the provisions of section 428.

(b) No funds may be appropriated under paragraph (2) or (3) of subsection (a) for a fiscal year unless the aggregate amount appropriated for such fiscal year to carry out this title (other than sections 427 and 428), title III (other than sections 306(a)(6)(P), 307(a)(12), and 311, and parts E, F, and G), title V, and title VI exceeds 105 percent of the aggregate amount appropriated for the preceding fiscal year to carry out such titles.

(c) No funds appropriated under this title—

(1) may be transferred to any office or other authority of the Federal Government which is not directly responsible to the Commissioner;

(2) may be used for any program or activity which is not specifically authorized by this title; or

(3) may be combined with funds appropriated under any other Act if the purpose of combining funds is to make a single discretionary grant or a single discretionary payment, unless such funds appropriated under this title are separately identified in such grant or payment and are used for the purposes of this title.

(42 U.S.C. 3037) As added December 29, 1981, P.L. 97-115, sec. 11(a), 95 Stat. 1605; amended October 9, 1984, P.L. 98-459, sec. 411, 98 Stat. 1785; amended November 29, 1987, P.L. 100-175, secs. 156(e)(2), 157(b), 158, and 159, 101 Stat. 955, 956.

### PAYMENTS OF GRANTS

Sec. 432 (a) To the extent the Commissioner deems it appropriate, the Commissioner shall require the recipient of any grant or contract under this title to contribute money, facilities, or services for carrying out the project for which such grant or contract was made.

(b) Payments under this title pursuant to a grant or contract may be made (after necessary adjustment, in the case of grants, on account of previously made overpayments or underpayments) in advance or by way of reimbursement, and in such installments and on such conditions, as the Commissioner may determine.

(c) The Commissioner shall make no grant or contract under this title in any State which has established or designated a State agency for purposes of title III unless the Commissioner has consulted with such State agency regarding such grant or contract.

(42 U.S.C. 3037a) As added December 29, 1981, P.L. 97-115, sec. 11(a), 95 Stat. 1605-1606; amended October 9, 1984, P.L. 98-459, sec. 412, 98 Stat. 1785.

### RESPONSIBILITIES OF COMMISSIONER

Sec. 433. (a) The Commissioner shall be responsible for the administration, implementation, and making of grants and contracts under this title and shall not delegate authority under this title to any other individual, agency, or organization.

(b) The Commissioner shall prepare and publish annually as part of the report provided for in section 207 a detailed description of all grants, contracts, and activities for which funds are paid under this title. Such report shall include the name of the recipient of each such grant or contract, the amount of funds provided for such grant or contract, and a justification of how the funded activity or project will achieve the purpose of this title.

(42 U.S.C. 3037b) As added October 9, 1984, P.L. 98-459, sec. 413, 98 Stat. 1785.

# TITLE V—COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS[1]

## SHORT TITLE

SEC. 501. This title may be cited as the "Older American Community Service Employment Act".

(42 U.S.C. 3001 note) As added November 28, 1975, P.L. 94-135, sec. 113(a), 89 Stat. 720; redesignated October 18, 1978, P.L. 95-478, sec. 105(a), 92 Stat. 1547.

## OLDER AMERICAN COMMUNITY SERVICE EMPLOYMENT PROGRAM

SEC. 502. (a) In order to foster and promote useful part-time opportunities in community service activities for unemployed low-income persons who are fifty-five years old or older, the Secretary of Labor (hereinafter in this title referred to as the "Secretary") is authorized to establish an older American community service employment program.

(b)(1) In order to carry out the provisions of this title, the Secretary is authorized to enter into agreements with public or private nonprofit agencies or organizations, including national organizations, agencies of a State government or a political subdivision of a State (having elected or duly appointed governing officials), or a combination of such political subdivisions, or tribal organizations in order to further the purposes and goals of the program. Such agreements may include provisions for the payment of costs, as provided in subsection (c), of projects developed by such organizations and agencies in cooperation with the Secretary in order to make the program effective or to supplement the program. No payment shall be made by the Secretary toward the cost of any project established or administered by any such organization or agency unless the Secretary determines that such project—

(A) will provide employment only for eligible individuals, except for necessary technical, administrative, and supervisory personnel, but such personnel shall, to the fullest extent possible, be recruited from among eligible individuals;

(B) will provide employment for eligible individuals in the community in which such individuals reside, or in nearby communities;

(C) will employ eligible individuals in services related to publicly owned and operated facilities and projects, or projects sponsored by organizations, other than political parties, exempt from taxation under the provisions of section 501(c)(3) of the Internal Revenue Code of 1954, except projects involving the construction, operation, or maintenance of any facility used or to be used as a place for sectarian religious instruction or worship;

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[1] The Comprehensive Older Americans Act Amendments of 1978 (P.L. 95-478: 92 Stat. 1516) repealed title V (relating to multipurpose senior centers) and title VII (relating to nutrition program for the elderly), and redesignated title IX (relating to community service employment for older Americans) as title V. The provisions of titles V and VII were consolidated into title III, as revised by the Comprehensive Older Americans Act Amendments of 1978 (P.L. 95-478; 92 Stat. 1516). The Domestic Volunteer Service Act of 1973 (P.L. 93-113; 87 Stat. 394) repealed title VI (relating to national older Americans volunteer program). The Older Americans Comprehensive Services Amendments of 1973 (P.L. 93-29; 87 Stat. 30) repealed title VIII (relating to general provisions).

(D) will contribute to the general welfare of the community;

(E) will provide employment for eligible individuals;

(F)(i) will result in an increase in employment opportunities over those opportunities which would otherwise be available; (ii) will not result in the displacement of currently employed workers (including partial displacement, such as a reduction in the hours of nonovertime work or wages or employment benefits); and (iii) will not impair existing contracts or result in the substitution of Federal funds for other funds in connection with work that would otherwise be performed;

(G) will not employ or continue to employ any eligible individual to perform work the same or substantially the same as that performed by any other person who is on layoff;

(H) will utilize methods of recruitment and selection (including listing of job vacancies with the employment agency operated by any State or political subdivision thereof) which will assure that the maximum number of eligible individuals will have an opportunity to participate in the project;

(I) will include such training as may be necessary to make the most effective use of the skills and talents of those individuals who are participating, and will provide for the payment of the reasonable expenses of individuals being trained, including a reasonable subsistence allowance;

(J) will assure that safe and healthy conditions of work will be provided, and will assure that persons employed in community service jobs assisted under this title shall be paid wages which shall not be lower than whichever is the highest of (i) the minimum wage which would be applicable to the employee under the Fair Labor Standards Act of 1938, if section 6(a)(1) of such Act applied to the participant and if the participant were not exempt under section 13 thereof, (ii) the State or local minimum wage for the most nearly comparable covered employment, or (iii) the prevailing rates of pay for persons employed in similar public occupations by the same employer;

(K) will be established or administered with the advice of persons competent in the field of service in which employment is being provided, and of persons who are knowledgeable with regard to the needs of older persons;

(L) will authorize pay for necessary transportation costs of eligible individuals which may be incurred in employment in any project funded under this title, in accordance with regulations promulgated by the Secretary;

(M) will assure, that to the extent feasible, such project will serve the needs of minority, limited English-speaking, and Indian eligible individuals in proportion to their numbers in the State and take into consideration their rates of poverty and unemployment;

(N) will authorize funds to be used, to the extent feasible, to include individuals participating in such project under any State unemployment insurance plan; and

(O) will post in such project workplace a notice, and will make available to each person associated with such project a written explanation, clarifying the law with respect to allowable and unallowable political activities under chapter 15 of title 5, United States Code, applicable to the project and to each category of individuals associated with such project and containing the address and telephone number of the Inspector General of the Department of Labor, to whom questions regarding the application of such chapter may be addressed.

(2) The Secretary is authorized to establish, issue, and amend such regulations as may be necessary to effectively carry out the provisions of this title.

(3) The Secretary shall develop alternatives for innovative work modes and provide technical assistance in creating job opportunities through work sharing and other experimental methods to prime sponsors, labor organizations, groups representing business and industry and workers as well as to individual employers, where appropriate.

(4) The Secretary may enter into an agreement with the Administrator of the Environmental Protection Agency to establish a Senior Environmental Employment Corps.

(c)(1) The Secretary is authorized to pay not to exceed 90 per centum of the cost of any project which is the subject of an agreement entered into under subsection (b), except that the Secretary is authorized to pay all of the costs of any such project which is (A) an emergency or disaster project, or (B) a project located in an economically depressed area, as determined by the Secretary in consultation with the Secretary of Commerce and the Director of the Office of Community Services of the Department of Health and Human Services.

(2) The non-Federal share shall be in cash or in kind. In determining the amount of the non-Federal share, the Secretary is authorized to attribute fair market value to services and facilities contributed from non-Federal sources.

(3) Of the amount for any project to be paid by the Secretary under this subsection, not more than 13.5 percent for fiscal year 1987 and each fiscal year thereafter shall be available for paying the costs of administration for such project, except that—

(A) whenever the Secretary determines that it is necessary to carry out the project assisted under this title, based on information submitted by the public or private nonprofit agency or organization with which the Secretary has an agreement under subsection (b), the Secretary may increase the amount available for paying the cost of administration to an amount not more than 15 percent of the cost of such project; and

(B) whenever the public or private nonprofit agency or organization with which the Secretary has an agreement under subsection (b) demonstrates to the Secretary that—

(i) major administrative cost increases are being incurred in necessary program components, including liability insurance, payments for workers' compensation, costs associated with achieving unsubsidized placement goals, and other operation requirements imposed by the Secretary;

(ii) the number of employment positions in the project or the number of minority eligible individuals participating in the project will decline if the amount available for paying the cost of administration is not increased; or

(iii) the size of the project is so small that the amount of administrative expenses incurred to carry out the project necessarily exceed 13.5 percent of the amount for such project;

the Secretary shall increase the amount available for the fiscal year for paying the cost of administration to an amount not more than 15 percent of the cost of such project.

(d)(1) Whenever a national organization or other program sponsor conducts a project within a State such organization or program sponsor shall submit to the State agency on aging a description of such project to be conducted in the State, including the location of the project, 30 days prior to undertaking the project, for review and comment according to guidelines the Secretary shall issue to assure efficient and effective coordination of programs under this title.

(2) The Secretary shall review on his own initiative or at the request of any public or private nonprofit agency or organization, or an agency of the State government, the distribution of programs under this title within the State including the distribution between urban and rural areas within the State. For each proposed reallocation of programs within a State, the Secretary shall give notice and opportunity for a hearing on the record by all interested individuals and make a written determination of his findings and decision.

(e)(1) The Secretary, in addition to any other authority contained in this title, shall conduct experimental projects designed to assure second career training and the placement of eligible individuals in employment opportunities with private business concerns. The Secretary shall enter into such agreements with States, public agencies, nonprofit private organizations and private business concerns as may be necessary to conduct the experimental projects authorized by this subsection. The Secretary from amounts reserved under section 506(a)(1)(B) in any fiscal year, may pay all of the costs of any agreements entered into under the provisions of this subsection. The Secretary shall, to the extent feasible, assure equitable geographic distribution of projects authorized by this subsection.

(2) Not later than 90 days after the date of enactment of the Older Americans Act Amendments of 1981, the Secretary shall issue criteria designed to assure that agreements entered into under paragraph (1) of this subsection—

(A) will involve different kinds of work modes, such as flextime, job sharing, and other arrangements relating to reduced physical exertion; and

(B) will emphasize projects involving second careers and job placement and give consideration to placement in growth industries and in jobs reflecting new technological skills.

(3)(A) The Secretary shall carry out an evaluation of the second career training and job placement projects authorized by this subsection.

(B) The evaluation shall include but not be limited to the projects described in paragraph (2).

(C) The Secretary shall prepare and submit, not later than one year after the enactment of the Older Americans Act Amendments of 1981, to the Congress an interim report describing the agreements entered into under paragraph (1) and the design for the evaluation required by this paragraph. The Secretary shall prepare and submit to the President and the Congress a final report on the evaluation required by this paragraph. The Secretary shall prepare and submit to the President and the Congress a final report on the evaluation required by this paragraph not later than February 1, 1984, together with his findings and such recommendations, including recommendations for additional legislation, as the Secretary deems appropriate.

(D) The Secretary shall make the final report submitted under subparagraph (C) available to interested private business concerns.

(4) For the purpose of this subsection, "eligible individual" means any individual who is 55 years of age or older and who has an income equal to or less than the intermediate level retired couples budget as determined annually by the Bureau of Labor Statistics.

(42 U.S.C. 3056) As added November 28, 1975, P.L. 94-135, sec. 113(a), 89 Stat. 720; redesignated and amended October 18, 1978, P.L. 95-478, secs. 105(a), 105(b), 92 Stat. 1547; amended December 29, 1981, P.L. 97-115, secs. 12(a), 12(b)(1), 12(c), 95 Stat. 1606; amended October 9, 1984, P.L. 98-459, sec. 501, 98 Stat. 1786; amended November 29, 1987, P.L. 100-175, secs. 161 and 162(a), 101 Stat. 957.

## ADMINISTRATION

SEC. 503. (a) In order to effectively carry out the provisions of this title, the Secretary shall, through the Commissioner of the Administration on Aging, consult with the State agency on aging designated under section 305(a)(1) and the appropriate area agencies on aging established under section 305(a)(2) with regard to—

(1) the localities in which community service projects of the type authorized by this title are most needed;

(2) consideration of the employment situations and the type of skills possessed by available local individuals who are eligible to participate; and

(3) potential projects and the number and percentage of eligible individuals in the local population.

(b)(1) If the Secretary determines that to do so would increase job opportunities available to individuals under this title, the Secretary is authorized to coordinate the program assisted under this title with programs authorized under the Job Training Partnership Act, the Community Services Block Grant Act, and the Vocational Education Act of 1984. Appropriations under this Act may not be used to carry out any program under the Job Training Partnership Act, the Community Services Block Grant Act, or the Vocational Education Act of 1984.

(2) The Secretary shall distribute to grantees under this title, for distribution to program enrollees, and at no cost to grantees or enrollees, information materials developed and supplied by the Equal

Employment Opportunity Commission and other appropriate Federal agencies which the Secretary determines are designed to help enrollees identify age discrimination and understand their rights under the Age Discrimination in Employment Act of 1967.

(c) In carrying out the provisions of this title, the Secretary is authorized to use, with their consent, the services, equipment, personnel, and facilities of Federal and other agencies with or without reimbursement, and on a similar basis to cooperate with other public and private agencies and instrumentalities in the use of services, equipment, and facilities.

(d) Payments under this title may be made in advance or by way of reimbursement and in such installments as the Secretary may determine.

(e) The Secretary shall not delegate any function of the Secretary under this title to any other department or agency of the Federal Government.

(f) In carrying out the provisions of this title, the Secretary may fund and expand projects concerning the Senior Environmental Employment Corps and energy conservation from sums appropriated under section 508 for such fiscal year.

(42 U.S.C. 3056a) As added November 28, 1975, P.L. 94-135, sec. 113(a), 89 Stat. 722; redesignated and amended October 18, 1978, P.L. 95-478, secs. 105(a), 105(c), 92 Stat. 1547; amended December 29, 1981, P.L. 97-115, sec. 12(d), 95 Stat. 1607; amended October 9, 1984, P.L. 98-459, sec. 502, 98 Stat. 1786; amended November 29, 1987, P.L. 100-175, sec. 163, 101 Stat. 958.

### PARTICIPANTS NOT FEDERAL EMPLOYEES

SEC. 504. (a) Eligible individuals who are employed in any project funded under this title shall not be considered to be Federal employees as a result of such employment and shall not be subject to the provisions of part III of title 5, United States Code.

(b) No contract shall be entered into under this title with a contractor who is, or whose employees are, under State law, exempted from operation of the State workmen's compensation law, generally applicable to employees, unless the contractor shall undertake to provide either through insurance by a recognized carrier, or by self-insurance, as authorized by State law, that the persons employed under the contract shall enjoy workmen's compensation coverage equal to that provided by law for covered employment.

(42 U.S.C. 3056b) As added November 28, 1975, P.L. 94-135, sec. 113(a), 89 Stat. 723; redesignated and amended October 18, 1978, P.L. 95-478, secs. 105(a), 503(d), 92 Stat. 1547, 1559.

### INTERAGENCY COOPERATION

SEC. 505. (a) The Secretary shall consult with, and obtain the written views of, the Commissioner of the Administration on Aging prior to the establishment of rules or the establishment of general policy in the administration of this title.

(b) The Secretary shall consult and cooperate with the Director of the Office of Community Services, the Secretary of Health and Human Services, and the heads of other Federal agencies carrying out related programs, in order to achieve optimal coordination with such other programs. In carrying out the provisions of this section, the Secretary shall promote programs or projects of a similar nature. Each Federal agency shall cooperate with the Secretary in disseminating information relating to the availability of assistance under this title and in promoting the identification and interests of individuals eligible for employment in projects assisted under this title.

(c) In administering projects under this title concerning the Senior Environmental Employment Corps and energy conservation, the Secretary shall consult with the Administrator of the Environmental Protection Agency and the Secretary of Energy and shall enter into an agreement with the Administrator and the Secretary of Energy to coordinate programs conducted by them with such projects.

(42 U.S.C. 3056c) As added November 28, 1975, P.L. 94-135, sec. 113(a), 89 Stat. 723; redesignated and amended October 18, 1978, P.L. 95-478, secs. 105(a), 105(d), 92 Stat. 1547, 1548; amended December 29, 1981, P.L. 97-115, sec. 12(b)(2), 95 Stat. 1606.

### EQUITABLE DISTRIBUTION OF ASSISTANCE

SEC. 506. (a)(1)(A) Subject to the provisions of paragraph (2), from sums appropriated under this title for each fiscal year, the Secretary shall first reserve such sums as may be necessary for national grants or contracts with public agencies and public or private nonprofit organizations to maintain the level of activities carried on under such grants or contracts at least at the level of such activities supported under this title and under any other provision of Federal law relating to community service employment programs for older Americans in fiscal year 1978. Beginning with the first fiscal year in which the amount appropriated to carry out this title exceeds the amount appropriated for fiscal year 1987 to carry out this title, the Secretary shall next reserve such sums as may be necessary for national grants or contracts with public or nonprofit national Indian aging organizations with the ability to provide employment services to older Indians and with national public or nonprofit Pacific Island and Asian American aging organizations with the ability to provide employment services to older Pacific Island and Asian Americans. Preference in awarding such grants or contracts shall be given to national organizations of proven ability in providing employment services to older persons under this program and similar programs. The Secretary, in awarding grants and contracts under this section, shall, to the extent feasible, assure an equitable distribution of activities under such grants and contracts, in the aggregate, among the States, taking into account the needs of underserved States.

(B) From sums appropriated under this title for each fiscal year after September 30, 1978, the Secretary shall reserve an amount which is equal to at least 1 per centum but not more than 3 per centum of the amount appropriated in excess of the amount appropriated for fiscal year 1978 for the purpose of entering into agreements under section 502(e), relating to improved transition to private employment.

(2) For each fiscal year in which the sums appropriated under this title exceed the amount appropriated for fiscal year 1978, the

Secretary shall reserve not more than 45 per centum of such excess amount for the purpose described in paragraph (1). The Secretary in awarding grants and contracts under such paragraph (1) from such 45 per centum shall, to the extent feasible, assure an equitable distribution of activities under such grants and contracts designed to achieve the allotment among the States described in paragraph (3) of this subsection. The remainder of such excess shall be allotted to the appropriate public agency of each State pursuant to paragraph (3).

(3) The Secretary shall allot to the State agency on aging of each State the remainder of the sums appropriated for any fiscal year under section 508 so that each State will receive an amount which bears the same ratio to such remainder as the product of the number of persons aged fifty-five or over in the State and the allotment percentage of such State bears to the sum of the corresponding product for all States, except that (A) no State shall be allotted less than one-half of 1 per centum of the remainder of the sums appropriated for the fiscal year for which the determination is made, or $100,000, whichever is greater, and (B) Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, and the Trust Territory of the Pacific Islands shall each be allotted an amount which is not less than one-fourth of 1 per centum of the remainder of the sums appropriated for the fiscal year for which the determination is made, or $50,000, whichever is greater. For the purpose of the exception contained in this paragraph the term "State" does not include Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(4) For the purpose of this subsection—

(A) the allotment percentage of each State shall be 100 per centum less that percentage which bears the same ratio to 50 per centum as the per capita income of such State bears to the per capita income of the United States, except that (i) the allotment percentage shall in no case be more than 75 per centum or less than 33⅓ per centum, and (ii) the allotment percentage for the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands shall be 75 per centum;

(B) the number of persons aged fifty-five or over in any State and in all States, and the per capita income in any State and in all States, shall be determined by the Secretary on the basis of the most satisfactory data available to him; and

(C) for the purpose of determining the allotment percentage, the term "United States" means the fifty States and the District of Columbia.

(b) The amount allotted for projects within any State under subsection (a) for any fiscal year which the Secretary determines will not be required for such year shall be reallotted, from time to time and on such dates during such year as the Secretary may fix, to projects within other States in proportion to the original allotments to projects within such States under subsection (a) for such year, but with such proportionate amount for any of such other

States being reduced to the extent it exceeds the sum the Secretary estimates that projects within such State need and will be able to use for such year; and the total of such reductions shall be similarly reallotted among the States whose proportionate amounts were not so reduced. Any amount reallotted to a State under this subsection during a year shall be deemed part of its allotment under subsection (a) for such year.

(c) The amount apportioned for projects within each State under subsection (a) shall be apportioned among areas within each such State in an equitable manner, taking into consideration (1) the proportion which eligible individuals in each such area bears to the total number of such individuals, respectively, in that State, and (2) the relative distribution of such individuals residing in rural and urban areas within the State.

(d) The Secretary shall require the State agency for each State receiving funds under this title to report at the beginning of each fiscal year on such State's compliance with subsection (c). Such report shall include the names and geographic location of all projects assisted under this title and carried out in the State and the amount allotted to each such project.

(42 U.S.C. 3056d) As added November 28, 1975, P.L. 94-135, sec. 113(a), 89 Stat. 723; redesignated and amended October 18, 1978, P.L. 95-478, secs. 105(a), 105(e), 92 Stat. 1547, 1548; amended December 29, 1981, P.L. 97-115, sec. 12(e), 95 Stat. 1607; amended October 9, 1984, P.L. 98-459, sec. 503, 98 Stat. 1787; amended November 29, 1987, Pub. L. 100-175, secs. 162(b) and 182(b)(3), 101 Stat. 957, 964.

### DEFINITIONS

SEC. 507. As used in this title—

(1) the term "eligible individual" means an individual who is fifty-five years old or older, who has a low income (including any such individual whose income is not more than 125 per centum of the poverty guidelines established by the Office of Management and Budget), except that, pursuant to regulations prescribed by the Secretary, any such individual who is sixty years old or older shall have priority for the work opportunities provided for under this title;

(2) the term "community service" means social, health, welfare, and educational services (particularly literacy tutoring), legal and other counseling services and assistance, including tax counseling and assistance and financial counseling, and library, recreational, and other similar services; conservation, maintenance, or restoration of natural resources; community betterment or beautification; antipollution and environmental quality efforts; weatherization activities; economic development; and such other services essential and necessary to the community as the Secretary, by regulation, may prescribe;

(3) the term "program" means the older American community service employment program established under this title; and

(4) the term "Pacific Island and Asian Americans" means Americans having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands.

(42 U.S.C. 3056e) As added November 28, 1975, P.L. 94-135, sec. 113(a), 89 Stat. 724; redesignated and amended October 18, 1978, P.L. 95-478, secs. 105(a), 105(f), 92 Stat. 1547, 1548; amended December 29, 1981, P.L. 97-115, sec. 12(f), 95 Stat. 1607; amended October 9, 1984, P.L. 98-459, sec. 503, 98 Stat. 1787; amended November 29, 1987, P.L. 100-175, secs. 164, 182(b)(4) and (p), 101 Stat. 958, 964, 967; amended November 7, 1988, P.L. 100-628, sec. 705, 102 Stat. 3247.

### AUTHORIZATION OF APPROPRIATIONS

SEC. 508. (a) There is authorized to be appropriated to carry out this title—

(1) $386,715,000 for the fiscal year 1988, $406,051,000 for the fiscal year 1989, $426,353,000 for the fiscal year 1990, and $447,671,000 for the fiscal year 1991.

(2) such additional sums as may be necessary for each such fiscal year to enable the Secretary, through programs under this title, to provide for at least 62,500 part-time employment positions for eligible individuals.

For purposes of clause (2), "part-time employment position" means an employment position within a workweek of at least 20 hours.

(b) Amounts appropriated under this section for any fiscal year shall be used during the annual period which begins on July 1 of the calendar year immediately following the beginning of such fiscal year and which ends on June 30 of the following calendar year. The Secretary may extend the period during which such amounts may be obligated or expended in the case of a particular organization or agency receiving funds under this title if the Secretary determines that such extension is necessary to ensure the effective use of such funds by such organization or agency. Any such extension shall be for a period of not more than 60 days after the end of such annual period.

(42 U.S.C. 3056f) As added November 28, 1975, P.L. 94-135, sec. 113(a), 89 Stat. 725; redesignated and amended October 18, 1978, P.L. 95-478, secs. 105(a), 105(g), 92 Stat. 1547, 1548; amended December 29, 1981, P.L. 97-115, sec. 12(g), 95 Stat. 1607-1608; amended October 9, 1984, P.L. 98-459, sec. 504, 98 Stat. 1787; amended November 29, 1987, P.L. 100-175, sec. 165, 101 Stat. 958.

### EMPLOYMENT ASSISTANCE AND FEDERAL HOUSING AND FOOD STAMP PROGRAMS

SEC. 509. Funds received by eligible individuals from projects carried out under the program established in this title shall not be considered to be income of such individuals for purposes of determining the eligibility of such individuals, or of any other persons, to participate in any housing program for which Federal funds may be available or for any income determination under the Food Stamp Act of 1977.

(42 U.S.C. 3056g) As added November 29, 1987, P.L. 100-175, sec. 166, 101 Stat. 958.

## TITLE VI—GRANTS FOR NATIVE AMERICANS

### STATEMENT OF PURPOSE

SEC. 601. It is the purpose of this title to promote the delivery of supportive services, including nutrition services to American Indians, Alaskan Natives, and Native Hawaiians that are comparable to services provided under title III.

(42 U.S.C. 3057) As added October 18, 1978, P.L. 95-478, sec. 106, 92 Stat. 1549; amended October 9, 1984, P.L. 98-459, sec. 601, 98 Stat. 1787; amended November 29, 1987, P.L. 100-175, sec. 171, 101 Stat. 959.

### SENSE OF CONGRESS

SEC. 602. It is the sense of the Congress that older Indians, older Alaskan Natives, and older Native Hawaiians are a vital resource entitled to all benefits and services available and that such services and benefits should be provided in a manner that preserves and restores their respective dignity, self-respect, and cultural identities.

(42 U.S.C. 3057a) As added October 18, 1978, P.L. 95-478, sec. 106, 92 Stat. 1549; amended November 29, 1987, P.L. 100-175, sec. 171, 101 Stat. 959.

## PART A—INDIAN PROGRAM

### FINDINGS

SEC. 611. (a) The Congress finds that the older Indians of the United States—

(1) are a rapidly increasing population;

(2) suffer from high unemployment;

(3) live in poverty at a rate estimated to be as high as 61 percent;

(4) have a life expectancy between 3 and 4 years less than the general population;

(5) lack sufficient nursing homes, other long-term care facilities, and other health care facilities;

(6) lack sufficient Indian area agencies on aging;

(7) frequently live in substandard and over-crowded housing;

(8) receive less than adequate health care;

(9) are served under this title at a rate of less than 19 percent of the total national Indian elderly population living on Indian reservations; and

(10) are served under title III at a rate of less than 1 percent of the total participants under that title.

(42 U.S.C. 3057b) As added October 18, 1978, P.L. 95-478, sec. 106, 92 Stat. 1549; amended December 29, 1981, P.L. 97-115, sec. 13(a), 95 Stat. 1608; amended November 29, 1987, P.L. 100-175, sec. 171, 101 Stat. 959.

### ELIGIBILITY

SEC. 612. (a) A tribal organization of an Indian tribe is eligible for assistance under this part only if—

(1) the tribal organization represents at least 50 individuals who are 60 years of age or older; and

(2) the tribal organization demonstrates the ability to deliver supportive services, including nutritional services.

(b) For the purposes of this part the terms "Indian tribe" and "tribal organization" have the same meaning as in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(42 U.S.C. 3057c) As added October 18, 1978, P.L. 95-478, sec. 106, 92 Stat. 1549; amended December 29, 1981, P.L. 97-115, sec. 13(b), 95 Stat. 1608; amended October

9, 1984, P.L. 98-459, sec. 602, 93 Stat. 1988; amended November 29, 1987, P.L. 100-175, sec. 171, 101 Stat. 959.

### GRANTS AUTHORIZED

SEC. 613. The Commissioner may make grants to eligible tribal organizations to pay all of the costs for delivery of supportive services and nutrition services for older Indians.

(42 U.S.C. 3057d) As added October 18, 1978, P.L. 95-478, sc. 106, 92 Stat. 1551; amended December 29, 1981, P.L. 97-115, sec. 13(c), 95 Stat. 1608; amended November 29, 1987, P.L. 100-175, sec. 171, 101 Stat. 960.

### APPLICATIONS

SEC. 614. (a) No grant may be made under this part unless the eligible tribal organization submits an application to the Commissioner which meets such criteria as the Commissioner may by regulation prescribe. Each such application shall—

(1) provide that the eligible tribal organization will evaluate the need for supportive and nutrition services among older Indians to be represented by the tribal organizations;

(2) provide for the use of such methods of administration as are necessary for the proper and efficient administration of the program to be assisted;

(3) provide that the tribal organization will make such reports in such form and containing such information, as the Commissioner may reasonably require, and comply with such requirements as the Commissioner may impose to assure the correctness of such reports;

(4) provide for periodic evaluation of activities and projects carried out under the application;

(5) establish objectives consistent with the purposes of this part toward which activities under the application will be directed, identify obstacles to the attainment of such objectives, and indicate the manner in which the tribal organization proposes to overcome such obstacles;

(6) provide for establishing and maintaining information and referral services to assure that older Indians to be served by the assistance made available under this part will have reasonably convenient access to such services;

(7) provide a preference for Indians aged 60 and older for full or part-time staff positions whenever feasible;

(8) provide assistance that either directly or by way of grant or contract with appropriate entities nutrition services will be delivered to older Indians represented by the tribal organization substantially in compliance with the provisions of part C of title III, except that in any case in which the need for nutritional services for older Indians represented by the tribal organization is already met from other sources, the tribal organization may use the funds otherwise required to be expended under this clause for supportive services;

(9) contain assurance that the provisions of sections 307(a)(14)(A) (i) and (iii), 307(a)(14)(B), and 307(a)(14)(C) will be complied with whenever the application contains provisions for the acquisition, alteration, or renovation of facilities to serve as multipurpose senior centers;

(10) provide that any legal or ombudsman services made available to older Indians represented by the tribal organization will be substantially in compliance with the provisions of title III relating to the furnishing of similar services; and

(11) provide satisfactory assurance that fiscal control and fund accounting procedures will be adopted as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid under this part to the tribal organization, including any funds paid by the tribal organization to a recipient of a grant or contract.

(b) For the purpose of any application submitted under this part, the tribal organization may develop its own population statistics, with certification from the Bureau of Indian Affairs, in order to establish eligibility.

(c) the Commission [1] shall approve any application which complies with the provisions of subsection (a).

(d) Whenever the Commissioner determines not to approve an application submitted under subsection (a) the Commission shall—

(1) state objections in writing to the tribal organization within 60 days after such decision;

(2) provide to the extent practicable technical assistance to the tribal organization to overcome such stated objections; and

(3) provide the tribal organization with a hearing, under such rules and regulations as the Commissioner may prescribe.

(e) Whenever the Commissioner approves an application of a tribal organization under this part, funds shall be awarded for not less than 12 months.

(42 U.S.C. 3057e) As added October 18, 1978, P.L. 95-478, sec. 106, 92 Stat. 1551; amended December 29, 1981, P.L. 97-115, sec. 3(d), 95 Stat. 1597; amended November 29, 1987, P.L. 100-175, sec. 171, 101 Stat. 960.

### SURPLUS EDUCATIONAL FACILITIES

SEC. 615. (a) Notwithstanding any other provision of law, the Secretary of the Interior through the Bureau of Indian Affairs shall make available surplus Indian educational facilities to tribal organizations, and nonprofit organizations with tribal approval, for use as multipurpose senior centers. Such centers may be altered so as to provide extended care facilities, community center facilities, nutrition services, child care services, and other supportive services.

(b) Each eligible tribal organization desiring to take advantage of such surplus facilities shall submit an application to the Secretary of the Interior at such time and such manner, and containing or accompanied by such information, as the Secretary of the Interior determines to be necessary to carry out the provisions of this section.

(42 U.S.C. 3057f) As amended October 18, 1978, P.L. 95-478, sec. 106, 92 Stat. 1551; amended November 29, 1987, P.L. 100-175, sec. 171, 101 Stat. 961.

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[1] Error in amendment made by section 171 of Public Law 100-175, 101 Stat. 961. Should be "Commissioner".

## PART B—NATIVE HAWAIIAN PROGRAM

### FINDINGS

SEC. 621. The Congress finds the older Native Hawaiians—

(1) have a life expectancy 10 years less than any other ethnic group in the State of Hawaii;

(2) rank lowest on 9 of 11 standard health indicies for all ethnic groups in Hawaii;

(3) are often unaware of social services and do not know how to go about seeking such assistance; and

(4) live in poverty at a rate of 34 percent.

(42 U.S.C. 3057g) As added October 18, 1978, P.L. 95-478, sec. 106, 92 Stat. 1551; amended December 29, 1981, P.L. 97-115, sec. 13(d), 95 Stat. 1608; amended October 9, 1984, P.L. 98-459, sec. 603, 98 Stat. 1788; amended November 29, 1987, P.L. 100-175, sec. 171, 101 Stat. 961.

### ELIGIBILITY

SEC. 622. A public or nonprofit private organization having the capacity to provide services under this part for Native Hawaiians is eligible for assistance under this part only if—

(1) the organization will serve at least 50 individuals who have attained 60 years of age or older; and

(2) the organization demonstrates the ability to deliver supportive services, including nutrition services.

(42 U.S.C. 3057h) As added November 29, 1987, P.L. 100-175, sec. 171, 101 Stat. 961.

### GRANTS AUTHORIZED

SEC. 623. The Commissioner may make grants to public and nonprofit private organizations to pay all of the costs for the delivery of supportive services and nutrition services to older Native Hawaiians.

(42 U.S.C. 3057i) As added November 29, 1987, P.L. 100-175, sec. 171, 101 Stat. 962.

### APPLICATION

SEC. 624. (a) No grant may be made under this part unless the public or nonprofit private organization submits an application to the Commissioner which meets such criteria as the Commissioner may by regulation prescribe. Each such application shall—

(1) provide that the organization will evaluate the need for supportive and nutrition services among older Native Hawaiians to be represented by the organization;

(2) provide for the use of such methods of administration as are necessary for the proper and efficient administration of the program to be assisted;

(3) provide assurances that the organization will coordinate its activities with the State agency on aging;

(4) provide that the organization will make such reports in such form and containing such information as the Commissioner may reasonably require, and comply with such requirements as the Commissioner may impose to ensure the correctness of such reports;

(5) provide for periodic evaluation of activities and projects carried out under the application;

(6) establish objectives, consistent with the purpose of this title, toward which activities described in the application will be directed, identify obstacles to the attainment of such objectives, and indicate the manner in which the organization proposes to overcome such obstacles;

(7) provide for establishing and maintaining information and referral services to assure that older Native Hawaiians to be served by the assistance made available under this part will have reasonably convenient access to such services;

(8) provide a preference for Native Hawaiians 60 years of age and older for full or part-time staff positions wherever feasible;

(9) provide that any legal or ombudsman services made available to older Native Hawaiians represented by the nonprofit private organization will be substantially in compliance with the provisions of title III relating to the furnishing and similar services; and

(10) provide satisfactory assurance that the fiscal control and fund accounting procedures will be adopted as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid under this part to the nonprofit private organization, including any funds paid by the organization to a recipient of a grant or contract.

(b) The Commissioner shall approve any application which complies with the provisions of subsection (a).

(c) Whenever the Commissioner determines not to approve an application submitted under subsection (a) the Commissioner shall—

(1) state objections in writing to the nonprofit private organization within 60 days after such decision;

(2) provide to the extent practicable technical assistance to the nonprofit private organization to overcome such stated objections; and

(3) provide the organization with a hearing under such rules and regulations as the Commissioner may prescribe.

(d) Whenever the Commissioner approves an application of a nonprofit private or public organization under this part funds shall be awarded for not less than 12 months.

(42 U.S.C. 3057j) As added November 29, 1987, P.L. 100–175, sec. 171, 101 Stat. 962.

### DEFINITION

Sec. 625. For the purpose of this part, the term "Native Hawaiian" means any individual any of whose ancestors were natives of the area which consists of the Hawaiian Islands prior to 1778.

(42 U.S.C. 3057k) As added November 29, 1987, P.L. 100–175, sec. 171, 101 Stat. 963.

## Part C—General Provisions

### ADMINISTRATION

Sec. 631. In establishing regulations for the purpose of part A the Commissioner shall consult with the Secretary of the Interior.

(42 U.S.C. 3057l) As added November 29, 1987, P.L. 100–175, sec. 171, 100 Stat. 963.

### PAYMENTS

Sec. 632. Payments may be made under this title (after necessary adjustments, in the case of grants, on account of previously made overpayments or underpayments) in advance or by way of reimbursement in such installments and on such conditions as the Commissioner may determine.

(42 U.S.C. 3057m) As added November 29, 1987, P.L. 100-175, sec. 171, 101 Stat. 963.

### AUTHORIZATION OF APPROPRIATIONS

Sec. 633. (a) Subject to subsection (b), there are authorized to be appropriated to carry out this title (other than section 615)—

(1) $13,400,000 for fiscal year 1988 of which $12,100,000 shall be available to carry out part A and $1,300,000 shall be available to carry out part B;

(2) $16,265,000 for fiscal year 1989, of which $14,900,000 shall be available to carry out part A and $1,365,000 shall be available to carry out part B;

(3) $19,133,000 for fiscal year 1990, of which $17,700,000 shall be available to carry out part A and $1,433,000 shall be available to carry out part B; and

(4) $22,105,000 for fiscal year 1991, of which $20,600,000 shall be available to carry out part A and $1,505,000 shall be available to carry out part B.

(b)(1) If the amount appropriated under subsection (a) for a fiscal year does not exceed the amount appropriated to carry out this title (as in effect before the effective date of the Older Americans Act Amendments of 1987) in fiscal year 1987, then the amount appropriated under subsection (a) for such fiscal year shall be available only to carry out part A.

(2) If the amount appropriated under subsection (a) for a fiscal year exceeds the amount appropriated to carry out this title (as in effect before the effective date of the Older Americans Act Amendments of 1987) in fiscal year 1987, then—

(A) $250,000 of such excess shall be made available to carry out part B; and

(B) one-half of the remaining amount of such excess shall be made available to carry out part B;

except that the aggregate amount made available to carry out part B may not exceed the amount required (without regard to this paragraph) by subsection (a) to be made available to carry out part B.

(42 U.S.C. 3057n) As added November 29, 1987, P.L. 100-175, sec. 171, 101 Stat. 963.

# APPENDIX B—Older Americans Act Funding, FY 1990-91 and FY 1992 Budget Request

[Dollars in Thousands]

| | 1990 | 1991 | 1992 Req. |
|---|---|---|---|
| Title II | | | |
| Federal Council on the Aging | $186 | $181 | $181 |
| Title III | | | |
| Grants for State and Community programs on aging—total | 853,105 | 901,827 | 903,422 |
| Supportive service and centers | 271,986 | 290,818 | 290,818 |
| Nutrition services | | | |
| total | 574,387 | 598,811 | 600,406 |
| congregate | ***351,924*** | ***361,083*** | ***361,083*** |
| home-delivered | ***78,981*** | ***87,831*** | ***87,831*** |
| USDA commodities | ***143,482*** | ***149,897*** | ***151,492*** |
| In-home service for frail elderly | 5,756 | 6,831 | 6,831 |
| Assistance for special needs | None | None | None |
| Health education and promotion | None | None | None |
| Elder abuse prevention | None | 2,927 | 2,927 |
| Long-term care ombudsman | 975 | 2,440 | 2,440 |
| Outreach for SSI, Medicaid, and food stamps | None | None | None |
| Title IV | | | |
| Training, research, and discretionary projects and programs | 25,332 | 26,917 [1] | 25,941 |
| Title V | | | |
| Community service employment for older Americans | 367,013 | 390,360 | 342,814 |
| Title VI | | | |
| Grants for Native Americans—total | 12,541 | 14,639 | 14,639 |
| Part A—Indian program | 11,108 | 13,134 | 13,134 |
| Part B—Native Hawaiian program | 1,433 | 1,505 | 1,505 |
| Total | 1,258,176 | 1,333,924 | 1,286,997 |

[1] Includes $1 million for the White House Conference on Aging.

# APPENDIX C—Proposed Amendments for the 1991 Reauthorization

*S. 243 (Adams)*

Older Americans Act Amendments of 1991. Reauthorized the Act for 4 years, through FY1995. Introduced January 23, 1991. Referred to Committee on Labor and Human Resources.

*S. 510 (Harkin)*

Older Americans Health Promotion and Disease Prevention Act. Expands current State authority under Title III, Part F to conduct preventive health services to include disease prevention and health promotion and extends Part F authorizations of appropriations through FY1995. Introduced February 26, 1991. Referred to Committee on Labor and Human Resources.

*S. 899 (Lugar)*

Lugar Volunteer Services Coordinator Bill. Amends Title II and Title III to recognize, support and promote the use of volunteers to assist older Americans through the creation of volunteer services coordinators at the state and area agency levels of the Network. Introduced April 23, 1991. Referred to Committee on Labor and Human Resources.

*S. 951 (DeConcini)*

Provides financial assistance for programs for the prevention, identification, and treatment of elder abuse, neglect and exploitation, establishes a National Center on Elder Abuse, and for other purposes. Introduced April 25, 1991. Referred to Committee on Labor and Human Resources.

*S. 973 (Adams)*

School-Based Meals for Older Individuals and Intergenerational Programs Act of 1991. Authorizes Title III funds to provide congregate nutrition services and intergenerational activities in elementary and secondary schools. Introduced April 25, 1991. Referred to Committee on Labor and Human Resources.

*S. 974 (Pryor)*

Heinz Elder Life Program Act. Elevates the Commissioner on Aging to Assistant Secretary in HHS; establishes a new subtitle for transportation services under Title III; authorizes funds for long-term care demonstration projects to be conducted by State and area agencies on aging; requires a Commission to study ways to improve reporting requirements and data collection under the Act. Introduced April 25, 1991. Referred to Committee on Labor and Human Resources.

*H.R. 385 (Oakar)/S. 951 (DeConcini)*

Prevention, Identification, and Treatment of Elder Abuse Act of 1991. Provides financial assistance for programs for the prevention, identification, and treatment of elder abuse, neglect, and exploitation, establishes a National Center on Elder Abuse, and for other purposes. Introduced January 3, 1991. Referred to House Committee on Education and Labor. S. 951 introduced April 25, 1991. Referred to Committee on Labor and Human Resources.

*H.R. 416 (Roe)*

Older Persons Comprehensive Counseling Assistance Act of 1991. Requires the Secretary of IRIS to make grants to States for counseling assistance programs for the elderly. Introduced January 3, 1991. Referred to Committee on Education and Labor.

*H.R. 597 (Kildee)*

Older Americans Equity and Service Improvement Amendments of 1991. Amends Title III to improve the participation of low-income minority older persons in Title III services. Authorizes funds under a new subpart H of Title III for supportive services for individuals who provide respite care for family caretakers of frail elderly. Introduced January 22, 1991. Referred to Committee on Education and Labor.

*H.R. 1059 (Downey)*

Amends Title III to require that commodities for cash-in-lieu of commodities be available to support two meals a day per person if the aggregate nutritional value of the meals meets specified dietary allowance requirements. Introduced February 21, 1991. Referred to Committee on Education and Labor.

*H.R. 1327 (Downey)*

Amends Title IV to require the Commissioner on Aging to publish an annual report on projects supported by Title IV funds. Introduced March 7, 1991. Referred to Committee on Education and Labor.

*H.R. 1507 (Gekas)*

Relief for Elderly Eviction and Foreclosure Act of 1989. Amends Title III to require that, as a condition of receiving funds, States have in effect a law stipulation that area agencies be informed of proceedings to compel older individuals to sell their residences, or to evict them from such residences. Area agencies are required to take actions to assist such individuals. Introduced March 20, 1991. Referred to Committee on Education and Labor.

*H.R. 1533 (Bilirakis)*

Amends Title III to require that States consider the geographic distribution of persons 85 years or older when designating planning and service areas and when developing formulas for the distribution of funds. Introduced March 20, 1991. Referred to Committee on Education and Labor.

*H.R. 1692 (Goodling)*

Among other provisions, amends Title XVIII of the Social Security Act to provide for expanded long-term care services under the Medicare program, referring to area agencies on aging as case management agencies. Introduced April 10, 1991. Referred to Committee on Education and Labor.

*H.R. 1737 (Lloyd)/S. 973 (Adams)*

School-Based Meals for Older Individuals and Intergenerational Programs Act of 1991. Authorizes Title III funds to provide congregate nutrition services and intergenerational activities in elementary and secondary schools. H.R. 1737 introduced April 11, 1991. Referred to Committee on Education and Labor. S. 973 introduced April 25, 1991. Referred to Committee on Labor and Human Resources.

*H.R. 1739 (Lowey)/S. 510 (Harkin)*

Older Americans Health Promotion and Disease Prevention Act. Expands current State authority under Title III, Part F to conduct preventive health services to include disease prevention and health promotion and extends Part F authorizations of appropriations through FY1995. H.R. 1739 introduced April 11, 1991. Referred to Committee on Labor and Human Resources. S. 510 introduced February 26, 1991. Referred to Committee on Labor and Human Resources.

*H.R. 2018 (Snowe)*

Area Agency on Aging Uniform Listing Act of 1991. Amends Title III to require uniform telephone listing of area agencies on aging. Introduced April 23, 1991. Referred to Committee on Education and Labor.

*H.R. 2019 (Snowe)*

Preventive Health Services for Older Americans Amendments of 1991. Amends Title III to assist older individuals to avoid falling and to prevent incorrect medication and adverse drug reactions. Introduced April 23, 1991. Referred to Committee on Education and Labor.

*H.R. 2020 (Snowe)*

Rural Equity for Older Americans Amendments of 1991. Amends Title III to require States to consider the geographic distribution of older persons residing in rural area when designating planning and service areas, and to consider a factor that reflects the cost of providing access to services to older persons in rural areas when developing formulas for the distribution of funds. Introduced April 23, 1991. Referred to Committee on Education and Labor.

*H.R. 2021 (Snowe)*

Older Americans Transportation Amendments of 1991. Amends Title III to require States to appoint a State advisory body to make recommendations regarding transportation services that affect older individuals and to provide coordination of such services. Requires the Commissioner on Aging to submit a report regarding transportation services provided under the Act. Introduced April 23, 1991. Referred to Committee on Education and Labor.

*H.R. 2022 (Snowe)*

Outreach, Information, and Referral Older Americans Amendments of 1991. Amends Title III to require State and area agencies to give special emphasis to information and referral and outreach services to isolated older persons and those who are victims of Alzheimer's disease and related disorders, and their caregivers. Introduced April 23, 1991. Referred to Committee on Education and Labor.

*H.R. 2023 (Snowe)*

Older Americans Guardianship Assistance Amendments of 1991. Amends Title III to authorize services relating to the appointment and monitoring of guardians and representative payees of older individuals. Introduced April 23, 1991. Referred to Committee on Education and Labor.

*H.R. 2024 (Snowe)*

White House Conference on Aging Act of 1991. Requires the President to call a White House Conference on Aging in 1993. Introduced April 23, 1991. Referred to Committee on Education and Labor.

*H.R. 2025 (Snowe)*

Older Americans Act Eldercare Amendments of 1991. Amends Title III to require bates to expand State and community involvement in order to promote cooperative efforts to provide community-based long-term care services to elderly persons including related services for their caregivers. Introduced April 23, 1991. Referred to Committee on Education and Labor.

*H.R. 2026 (Snowe)*

Caregivers Supportive Services Amendments of 1991. Amends Title III to provide supportive services to informal caregivers who assist older individuals in need of long-term care to remain in their homes. Introduced April 23, 1991. Referred to Committee on Education and Labor.

*H.R. 2391 (Saxton/Hughes)*

In-Home Care Encouragement Amendment. Amends Title III to authorize States to transfer to Part D not more than 50 percent of the funds allotted for Parts B and C. Introduced May 20, 1991. Referred to Committee on Education and Labor.

*H.R. 2392 (Saxton/Hughes)*

Consumer Protection Demonstration Projects Amendment. Amends Title III to authorize appropriations for fiscal years 1992 and 1993 for consumer protection demonstration projects. Introduced May 20, 1991. Referred to Committee on Education and Labor.

*H.R. 2393 (Hughes/Saxton)*

Older Americans Health Promotion and Disease Prevention Act. Amends Title III to expand the preventive health services program to include disease prevention and health promotion services. Introduced May 20, 1991. Referred to Committee on Education and Labor.

*H.R. 2653 (Smith)*

Requires the Commissioner on Aging to carry out model volunteer service credit projects. Introduced June 13, 1991. Referred to Committee on Education and Labor.

*H.R. 2780 (Roybal)*

National Older Americans Advocacy and Protection Amendments of 1991. Increases the authority of the Commissioner; establishes the Office of Long-Term Care Ombudsman Programs and provide for the appointment of an Associate Commissioner for Ombudsman Services; enhances the State long-term care ombudsman programs; provides financial assistance for programs relating to elder abuse, exploitation, or neglect; and for other purposes. Introduced June 26, 1991. Referred to Committees on Education and Labor and Ways and Means.

# APPENDIX D—Aging Advocacy Organizations' 1991 Reauthorization Recommendations

## AMERICAN ASSOCIATION OF RETIRED PERSONS

The American Association of Retired Persons (AARP) appreciates this opportunity to outline what we regard as the major issues of the 1991 reauthorization of the Older Americans Act (OAA). The Association strongly supports the OAA programs, which constitute the major vehicle for the provision of social services to older persons in this country. For many years, however, AARP has been concerned about the effectiveness with which these programs are being targeted to the most vulnerable older persons, the accuracy and quality of program data, and the effectiveness of the Administration on Aging (AoA) in providing guidance and technical assistance to the states, as they execute the mission of the Act.

### RECOMMENDATIONS

Implement better data collection procedures, in order to monitor the effectiveness of targeting efforts;

include the intrastate funding formula as part of the state plan and make it subject to approval by AoA;

require AoA to monitor each state plan and funding formula for possible discriminatory effects on minorities;

require any intrastate funding formula that does not specifically include the incidence of low-income and minority individuals in the state to explain why inclusion of these factors is unnecessary;

develop a standard definition of "rural", and require the intrastate funding formula to include a rural factor, or explain why this factor is unnecessary;

mandate AoA to provide technical assistance to states on how to improve minority participation and require states to provide technical assistance to minority service providers;

require state and area agencies on aging to (a) establish specific action plans to ensure increased service provision to low-income minority individuals in each planning and service area, and (b) evaluate the effectiveness of service delivery to low-income minority individuals in each planning and service area, including quantitative data on types of services received and intensity of services received;

request the U.S. Commission on Civil Rights to conduct a follow-up study on the adequacy of OAA services to minority individuals;

strengthen requirements for improved coordination between Titles VI and III, and increase funding for both Titles;

direct a portion of Title III services to persons residing in assisted housing;

exempt the SSI/Food Stamp/Medicaid Outreach Demonstration from the 105% funding "trigger" and extend the outreach demonstration throughout the next reauthorization period;

require AoA, when awarding national grants, to give priority to projects that target low-income minorities; state units on aging also should emphasize service to low-income minorities, where they are given grant-making authority; and

require competitive awarding of all grants under Title IV of the Act unless special circumstances dictate sole source contracts; require public dissemination of research and demonstration results funded by Title IV; and require periodic evaluation of all Title IV multi-year grantees with public dissemination of evaluation results.

The Association stands ready to work with the Congress during the reauthorization process to achieve the important goals of improving administration of the Act and targeting services to the most vulnerable older Americans.

National Association of State Units on Aging,
Washington, DC 20006,
*May 15, 1991.*

The Honorable David Pryor
Chairman, Senate Special Committee on Aging
SD-G31 Dirksen Senate Office Building
Washington, D.C. 20510-6400

Dear Senator Pryor,

The National Association of State Units on Aging is pleased to have this opportunity to highlight our recommendations for the 1991 reauthorization of the Older Americans Act. At the same time we want to applaud the participatory process you used during the past year to receive ideas and suggestions from all actors in the field of aging.

NASUA has developed a comprehensive set of specific recommendation for changes in the OAA. We believe that these changes I would continue to strengthen the capacity of the OAA network to be responsive to the changing circumstances, needs and preferences of the nation's elderly. These policy recommendations include:

elevating the rank and status of the Administration on Aging and the U.S. Commissioner on Aging

a new set of targeting requirements for state plans, area plans and service provider contracts

a cost sharing proposal for certain services provided under the Act to enhance coordination, ensure equity, encourage targeting and generate new resources

a new Title VII—Grants to States for Elder Rights Programs—to consolidate and underscore the advocacy responsibilities of the aging network—ombudsman, elder abuse, legal services development and benefits counseling

new provisions to underscore the "public purpose" mission of network agencies while encouraging appropriate public/private partnerships

maintaining state leadership and flexibility in the administration of the Act

a set of new provisions to enhance coordination between Titles VI and III, and to underscore the responsibilities of the aging network to older native Americans

Thank you for this opportunity to present NASUA's views on the OAA reauthorization and thank you for your continued advocacy and concern for older Americans.

Sincerely,

Daniel A. Quirk,
*Executive Director.*

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## National Association of Area Agencies on Aging

### RECOMMENDATIONS FOR THE 1991 OLDER AMERICANS ACT REAUTHORIZATION

### *I. Increasing Access to Services*

Enhancing targeting efforts to low-income minority, frail, and rural elders through changes in intrastate funding formulas, having state formulas reviewed and approved/disapproved by the Commissioner on Aging, having Area Plans contain specific targeting objectives, and by other means.

Improving the data collection system so that it is consistent across states and allows an accurate assessment of service utilization, minority participation, and unmet needs.

Strengthening transportation funding, services, and coordination.

Increasing the link between Area Agencies and public/low income housing.

### *II. Elder Protection*

Strengthening the Long-Term Care Ombudsman program.

Enhancing health promotion and prevention efforts.

### *III. Strengthening the Aging Network*

Elevating the position of the U.S. Commissioner on Aging to the rank and status of the head of an operating division within the Department of Health and Human Services.

Utilize the existing network of Area Agencies on Aging to coordinate federal programs for older persons at the local level, including SSI outreach, Medicaid, housing, and food stamps.

Promoting a lead role for State and Area Agencies in a national community-based long-term care system.

*IV. Enhancing Resources/Resource Allocation for the Aging Network*

Increasing the authorization/appropriations levels for Older Americans Act programs.

Supporting Public-Private partnerships, while insuring that the public mission of Area Agencies is maintained.

Voluntary cost-sharing to defray the expense of costly in-home services.

Maintain current transferability between Title III-B and III-C programs.

New responsibilities or special mandates must be accompanied by additional funding.

As new tribes are added to Title VI, current grantees should be held harmless.

*V. Operational Issues of Concern to Area Agencies on Aging*

Area Agencies on Aging having the authority to directly provide outreach and information and referral services and care/case management.

Establishing "due process" procedures for states to follow in the dedesignation/redesignation processes of Area Agencies and planning and service areas.

Restore the provision that prohibits State Units from requiring prior approval of grants and/or contracts entered into by Area Agencies

Area Agencies are not agents or employees of the state.

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## The National Council on the Aging, Inc.

### POSITION STATEMENT SUMMARY ON THE OLDER AMERICANS ACT 1991 REAUTHORIZATION

*Long-term care and the OAA*

The National Council on the Aging (NCOA) believes that the major focus of the Older Americans Act (OAA) is to promote and maintain health and foster independence through the delineated social and nutrition services of Title III of the Act.

NCOA holds that long-term care services addressing chronic health problems should not be provided under the Older Americans Act. While standards for in-home, case management, and other long-term care services may appropriately be developed under the OAA, implementation of such standards and provision of such services must be part of a national health or long-term care program much a program based on health care needs, not age, should have adequate appropriations and be located in agencies that can effectively carry out the administration of such services.

*Cost sharing*

NCOA rejects the concepts of means-testing and mandatory cost-sharing for OAA services. The real issue hidden behind cost sharing is the fact that federal funding has not kept pace with need. Congress must authorize and appropriate an adequate budget for an adequate budget for an Act that enhances the quality of life of millions of older people.

*Title V*

NCOA recommends funding for the Senior Community Service Employment Program (SCSEP) be increased by at least 11.3 percent. NCOA also recommends dual eligibility for the Title V and Job Training Partnership Act programs.

*Changes in OAA titles*

NCOA believes that transportation services provided under the OAA could best be improved by transferring administration of those services to the Department of Transportation.

NCOA recommends moving the legal assistance, ombudsman, and elder abuse prevention services under a new "legal and protective services" title. These services are to ensure access. They do not include enforcement of laws protecting rights; that function belongs to other agencies.

*Public-private partnerships*

NCOA believes that public-private partnerships may present a potential for conflict of interest and abuse on the part of State and area agencies on aging and their stated mission of serving those with the greatest social and economic need, and therefore recommends close scrutiny of such arrangements.

*AoA and Federal Council on the Aging*

NCOA recommends that Congress elevate the Commissioner on Aging to the level of Assistant Secretary within DHHS and transfer the Federal Council on the Aging to a new capacity as an advisory council to AoA.

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## NATIONAL ASSOCIATION OF NUTRITION & AGING SERVICES PROGRAMS

### RECOMMENDATIONS FOR REAUTHORIZATION OF THE OLDER AMERICANS ACT—EXECUTIVE SUMMARY

The National Association of Nutrition and Aging Services Programs (NANASP) strongly recommends that the following recommendations be implemented as part of the reauthorization of the Older Americans Act:

1. Authorization and appropriation levels for the OAA should be immediately increased by a minimum of 10%.
2. A annual factor to cover increases in the cost-of-living and growth of the senior population should be included in the OAA. Six percent is suggested.
3. Appropriations for Subparts D, E, and F should be funded independently of other subparts, at authorized levels.
4. Priority for services under Subpart F should be given to established nutrition providers and senior centers.
5. A moratorium should be placed on transfers between subparts. Each subpart should be funded adequately based on need. Since transfers have never exceeded 17%, the necessity for transfer authority is not significant. Transfers between C1 and C2 should be allowed, determined by local programs as part of the area plan process.
6. U.S.D.A. Cash-in-lieu should be indexed to a cost-of-living factor to prevent erosion of purchasing ability over time. The current rate should be increased to $0.6566 per meal to make up for past inflation.
7. No change should be made to voluntary contributions under the Act.
8. Increase funding for targeting/outreach activities through established senior centers and nutrition programs.
9. Define the minimum data set to be collected by the network, permitting states to design their own collection system in response. Assist Minority Representative providers with automated data software, and a uniform reporting taxonomy.
10. Include the the School-based Meals and Intergenerational Programs Act as an addition to Title IIIC services.
11. Elevate the status of Commissioner of Aging to Assistant Secretary for Aging with DHHS.
12. Increase funding under Title IV and target funds for states to develop training for network components, particularly service providers.
13. Include a requirement that all state formulas include a low-income and minority factors.
14. Restore funding to Title VI grantees who have lost funds due to the addition of new grantees. Include a hold-harmless clause to prevent future losses.

Additionally, NANASP fully supports the adoption and inclusion of the Minimum Nutrition Standards developed in conjunction with the American Dietetic Association and the National Association of Meal Programs (copy attached).

## NATIONAL ASSOCIATION OF MEAL PROGRAMS

### REAUTHORIZATION OF THE OLDER AMERICANS ACT—EXECUTIVE SUMMARY

**The National Association of Meal Programs (NAMP), representing providers of both congregate and home delivered meals, makes the following recommendations regarding the reauthorization of the Older Americans Act slated for Congressional action in 1991**

**1. Establish as an entitlement for each meal provider a minimum floor of assistance per meal ($1.75 is suggested initially with annual adjustments based on the Bureau of Labor statistics index of cost of food away from home) and then establish criteria through which the state and area agencies on aging can augment with Title III funds this minimum assistance level in view of legitimate operation cost differentials.**

**2. In conjunction with a guaranteed entitlement for any senior to participate in a meal program, either congregate or home delivered, establish a cost sharing model.**

3. In light of the national average waiting list of seventy people per program for a home delivered meal and the fact of limited service in rural areas, NAMP recommends that congress eliminate completely transfers between Title IIIB and Title IIIC and limit transfer authority of Title IIIC funding from C–1 to C–2 or vice versa only In 1989, transfer of funds from III–C resulted in a decrease of $92 million dollars in funds available for meals.

4. Increase the United States Department of Agriculture level of assistance from .5676 per meal to .6533 per meal, make this assistance an entitlement, and index the level based on the change in the food away from home consumer price index.

5. In order to promote and maintain good quality Title III C–1 and C–2 programs throughout the country, federal standards should be developed and promulgated to ensure at least a minimum level of program performance. Current operational standards, practices and procedures need to be reviewed and measured against such standards. Therefore, NAMP recommends that:

A set of minimum standards be developed for Title III C–1 and C–2 programs that address issues including but not limited to menu planning, staffing, food service code conformance, staff training and development, and client assessment and nutrition education.

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## NATIONAL ASSOCIATION OF STATE LONG-TERM CARE OMBUDSMAN PROGRAMS

Long Term Care Ombudsman Programs are mandated by the Older Americans Act to provide advocacy services, complaint investigation and educational services to residents of long term care facilities and their families. The reauthorization of this Act is of major importance to these programs.

The following is a general listing of items which we consider are some of the most important issues to be addressed in this reauthorization effort.

expand the authority of the ombudsman to pursue advocacy, including administrative, legal, and other remedies;

strengthen the role of the local ombudsman to ensure resident access to empowerment services and more timely response to complaints;

strengthen the federal role to support the ombudsman programs, to oversee their effectiveness and to make proper use of data available from state ombudsmen;

continue to make technical resources available to the programs through maintenance of the National Resource Center;

increase the accountability of the program by setting explicit mandates for state and local program responsibilities and requiring anyone who acts as a representative of the Office to do so only through designation by the state ombudsman;

prohibit conflicts of interest in state and local programs which could interfere with the performance of ombudsman duties;

require annual reports to the public on the extent of the problems seen by ombudsmen, the barriers faced in redressing these problems, and recommendations for changes in laws, regulations or government policies to address them; and

a recommendation that AoA commission or conduct a study of the ombudsman program which analyzes costs and availability of ombudsman services, and effectiveness of the program in each state.

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## NCBA 1991 REAUTHORIZATION OAA PRIORITY LISTING

*I. Targeting of Title III Services to Elderly Minorities:*

A. State plans should emphasize that one of its primary objectives is to serve low-income elderly minority individuals, other persons with the greatest economic or social needs, and individuals residing in rural areas according to their need for service.

B. AAA's should include within its agreement with service providers a requirement; that service providers, should attempt to deliver services to low-income minority individuals in accordance with their need for services.

C. The U.S. Commissioner of Aging should approve or disapprove the state intrastate funding formula, as well as overall state plan.

D. The 1991 Older Americans Equity and Service Improvement Amendments (HR 597) which would require: (1) That AAA plan have specific objectives for providing services to low-income minorities; and (2) the state plan provide assurances, that special efforts will be made to offer technical assistance to minority services providers, be enacted into law.

E. AAA's should make greater efforts to obtain more diversity in retaining private law firms to deliver services to Older Americans by utilizing more law firms with minority legal and paralegal personnel.

*II. NCBA is Unalterably Opposed to a Fee-for-Service System (Cost Sharinq):*

We are deeply concerned that a negotiated fee for service would encourage service providers under OAA to cater to elderly persons who can pay the highest percentage of the cost of service. In NCBA's view, the existing voluntary arrangement has worked reasonably well and should be retained, rather than replaced by an inferior fee-for-service system which can undermine minority participation.

*III. Title IV Should Stimulate Greater Minority Involvement:*

A. AOA should fund institutions, organizations, and agencies which either serve economically or socially disadvantaged older individuals, or have a sizeable percentage of older members who are economically disadvantaged.

B. AOA should promote career preparation training and education for minorities especially at historical Black colleges and universities and other institutions serving the needs of minority students.

*IV. Clarification of Title V SCSEP Enrollee Status:*

The 1991 OAA amendments should clarify that SCSEP participants are enrollees and are only entitled to those benefits which are specifically enumerated in Title V of OAA. This would include IIII wages, Social Security coverage, worker's compensation coverage, and other fringe benefits which can be provided without displacing existing enrollees. At the outset NCBA does not object to pension coverage or health insurance coverage for Title V enrollees, provided there is ample funding to cover this major additional cost. However, if there is no commensurate funding increase to cover this additional cost, approximately 25 percent to 50 percent of all authorized Title V positions would be eliminated. Also, the basic underpinning of Title V as an employment training program would be substantially changed by removing the incentive for Title V enrollees to transition into unsubsidized employment, if pension and health coverage are mandated under other statues.

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## NATIONAL INDIAN COUNCIL ON AGING, INC.

### THE OLDER AMERICANS ACT REAUTHORIZATION RECOMMENDATIONS, 1991

The National Indian Council on Aging, Inc., endorses:

*Title II*

Appointment of an American Indian/Alaskan Native representative to the Federal Council on Aging.

Elevation of AoA Commissioner to the position of Assistant Secretary.

*Title III*

Authorizing the Commissioner to: Contract directly with Indian tribes and tribal organizations, and to designate them as Area Agencies on Aging; review the effectiveness of AAA's in targeting and serving Indian elders; conduct hearings with AAA's not complying with outreach provisions; disqualify non-complying AAA's, reallocate funds from disqualified agencies to tribal or other AAA's, specifying that a percentage of such funds be used for outreach services to rural, needy minorities.

Modify the intrastate funding formula to include considerations of the high incidence of unemployment on Indian reservations and in rural Indian communities.

*Title IV*

Provide for the establishment and operation of a National Data Base on Indian and Alaskan Native Elders.

*Title V*

Oppose any cuts in Title V appropriations; increase the administrative cost ceiling to 20 percent; increase SCSEP slots for American Indians to 500 for FY '92-93 through an appropriation of $3,030,500; designate $25 million for American Indian SCSEP programs between 1993 and 1997; authorize the AoA to administer American Indian SCSEP programs.

*Title VI*

Appropriate $25 million for grantees in 1992; $30 million for 1993; $35 million for 1994, in order to:

a. restore 150 long-term grantees to approximate funding levels of $100,000 each;

b. increase funding for 30 existing grantees to $30,000 each;

c. add 25 new grantees at funding levels of $60,000 each.

Provide supplemental funding for employee wages and training.

Award grants for three-year periods without requiring annual application.

Provide for use of unexpended funds by grantees in the following year.

Provide Part B of Title VI with its own title; authorize Part B appropriations under separate criteria than Part A; return unused monies from Part B to Part A grantees.

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National Council of La Raza,
Washington, DC 20002,
*May 15, 1991.*

The Honorable David Pryor, Chairman
United States Senate
Special Committee on Aging
G–31 Senate Dirksen Office Building
Washington, D.C. 20510–6400

Dear Senator Pryor:

On behalf of the National Council of La Raza (NCLR) we thank you for your invitation to provide input regarding NCLR' s concerns about the reauthorization of the Older Americans Act (OAA). We will specifically address issues affecting Hispanics and other low-income minorities.

First, we believe that the targeting language of the OAA needs to be strengthened and clarified to provide greater assurance that low-income minority elderly will be served more suitably. While the law recognizes that low-income older minorities have a greater need for services, and encourages targeting those in greatest economic and social need, minority elderly are not served in proportion to their needs. local providers are required to serve minority individuals in at left the same proportion as the population of minority elderly bears to the total elderly population in the area served by such provider. This standard ignores the fact that minority elderly are disproportionately poor.

We consider that a better standard—for example, one that would require that low-income minority elderly be served by OAA programs in at least the same proportion as the population of minority elderly bears to the low-income elderly population—is important. At minimum, the language of the Act should be modified to require that State and Area Agencies provide specific objectives for serving low-income minority elderly in their plan, and that if minorities are being underserved, the area plan should specify corrective actions. To further guide state units in their targeting efforts, states should be required to include a minority factor in their Intrastate Funding Formula (IFF), and these formulas should be standardized and regulated by AoA.

Second, NCLR believes that effective targeting of minorities requires special outreach activities. Thus, an increase in funding for Title III to support more aggressive outreach efforts should be included in the Act. In times of budgetary constraint, the promise of additional funds can be a strong incentive for Area Agencies on Aging to intensify their targeting efforts. Rather than sanctioning those who do not fully comply with AoA's targeting mandate, AoA should first try rewarding those who excel.

Third, we believe the states' authority to transfer funds within Title III should be limited. While it is important that states have flexibility in administering OAA funds, transfers have not been "two-way" between the meal programs or the social services; rather, they all have been in one direction: from congregate nutrition to the other programs. As a result, the congregate meal program is being slowly eroded. The congregate meal program is one of the most popular programs among Hispanic elderly. It not only affords the opportunity to provide participants other needed services, but, most important, for many Hispanic elderly, the meal they receive at a congregate site is their only full, nutritionally-balanced daily meal. We would therefore oppose any effort to increase the states' transfer authority and support measures to limit transfers.

Finally, some states or areas where Hispanics, many of them low-income elderly, are concentrated—South Texas, California, Florida, Arizona and New Mexico—receive a substantial number of "winter tourists" or "snow birds" each year, placing a strain on resources and services originally targeted for local elderly. NCLR believes the problem is serious enough to merit a study of the impact these "winter elderly" have on local resources and on services to the resident elderly population. Such a study could provide information needed to take action against any negative effects this phenomenon may cause.

Again thank you for the opportunity to present our views regarding the Older Americans Act. We look forward to your leadership in this reauthorization process, and hope to continue to work with you and your staff towards an Act that more suitably addresses the needs of low-income minority elderly.

Sincerely,

CRISTINA LOPEZ,
*Director, Ancianos Network Project.*

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